

*United States Court of Appeals  
for the Second Circuit*



**APPENDIX**



76-1436

IN THE UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

JERRY WINSTON, BROOME  
COUNTY AVIATION, INC.,  
COMMUTER AIRLINES, INC.,  
and THEODORE (TED) BELL,

Defendants-Appellants.

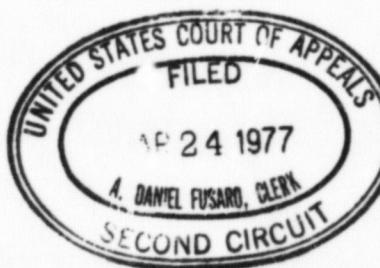
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PLS

ON APPEAL FROM THE JUDGMENT OF THE  
UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF NEW YORK

APPENDIX - VOLUME 7

Exhibit Volume - pages 1e to 32e

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UNITED STATES ATTORNEY FOR THE  
NORTHERN DISTRICT OF NEW YORK  
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Attorney for Appellee

**PAGINATION AS IN ORIGINAL COPY**

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NATIONAL MEDIATION BOARD  
WASHINGTON, D.C. 20572

October 16, 1970

Mr. Jerry Winston, President  
Broome County Aviation, Inc. -Commuter Airlines  
P. O. Box 904  
Binghamton, New York 13902

Dear Mr. Winston:

Please find enclosed Notice of Election and sample ballot to be posted on Pilots bulletin board as required and as agreed.

Also I am enclosing a copy of the Rules which you have requested.

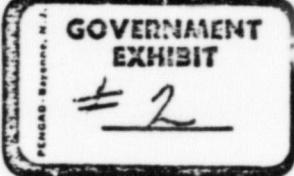
Thank you for your assistance and cooperation.

Very truly yours,

John B. Willits  
Mediator

cc: Mr. Bruce Becker  
1201 Monroe Street  
Endicott, New York 13760





NATIONAL MEDIATION BOARD

2e

NOTICE OF ELECTION  
TO BE HELD UNDER THE  
RAILWAY LABOR ACT

Involving  
PILOTS AND CO-PILOTS

of

BROOME COUNTY AVIATION, INC. - COMMUTER AIRLINES

October 16, 1970 to November 2, 1970

Case No. R-4185

Washington, D. C.  
October 16, 1970

TO ALL CONCERNED:

A SECRET BALLOT will be conducted by United States Mail on the question of representation of Pilots and Co-Pilots, employees of Broome County Aviation, Inc. - Commuter Airlines as submitted to the National Mediation Board by the Union of Professional Airmen, Case No. R-4185.

Section 2, Fourth, of the Railway Labor Act, as amended, provides that "The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purpose of this Act."

Attention is called to Section 2, Railway Labor Act, providing that elections shall be free from interference, influence or coercion, etc., also that it is unlawful for any carrier to interfere in any way with the organization of the employees, etc. Attention is also called to Order No. 2, issued by the National Mediation Board on May 29, 1936; and sent to the President of the Carrier, in which it was ordered that "notice in re Railway Labor Act" should be posted and maintained continuously in readable condition on all the usual and customary bulletin boards.

Reports of any violation should be made to the Mediator or the National Mediation Board, Washington, D. C. 20572.

THE RULES TO GOVERN THE ELECTION ARE AS FOLLOWS:

1. Time and Place of Election: The balloting will be conducted entirely by United States Mail. There will be no ballot box voting. Official Ballots will be mailed to all eligible voters. Instructions for voting by United States Mail will be included in each ballot.

SHOULD ANY VOTER FAIL TO RECEIVE A BALLOT WITHIN A REASONABLE TIME, SUCH VOTER SHOULD PERSONALLY REPORT THE FACT IN WRITING TO THE MEDIATOR IN CARE OF THE NATIONAL MEDIATION BOARD, WASH., D.C.

2. Craft or Class Involved: The employees eligible to vote in this election shall be those employees designated as Pilots and Co-Pilots whose names appear on the payroll of the Carrier as of October 11, 1970. 2057

3. List of Eligible Voters: A list of the eligible voters has been prepared by the Mediator, and same has been approved by party representative. Only those individuals whose names appear on such list will be permitted to vote, except that upon proof of error, such error will be corrected.

4. Supervision of Election: The election will be supervised by the Mediator and he will interpret and apply the rules governing the election, and shall decide on all challenged votes. His decisions shall be final as to the immediate conduct of the election, but appeal may be made to the National Mediation Board, provided that notice of such appeal is given in writing to the Mediator prior to the submission of his report of the election to the Board. Each organization that is a party to this dispute may, if it so desires, appoint an observer to assist the Mediator in the handling of the election. Such observers shall be under the supervision of the Mediator at all times.

5. Report of Election Results: The Mediator will count and tabulate all ballots in the presence of party observers, if any, at a time and place designated by the Mediator in Washington, D. C., November 2, 1970. A report giving the results of the election will be made by the Mediator on a form prescribed by the Board and copy of this report will be furnished to the parties to the dispute.

6. Certification of Representatives: Proper certification of the name or names of the organization or individual that has been designated and authorized to represent the employees involved in this dispute will be made by the National Mediation Board to the parties to the dispute, and the same will also be certified to the carrier.

7. Final Disposition of Ballots: The original ballots and tabulation sheets together with the report of the results of the election by the Mediator will be filed with the National Mediation Board, Washington, D. C., for reference and safekeeping.

By order of the NATIONAL MEDIATION BOARD.

John B. Willits  
Mediator

OFFICIAL BALLOT  
OF  
NATIONAL MEDIATION BOARD  
Involving  
PILOTS AND CO-PILOTS  
Employees of  
BROOME COUNTY AVIATION, INC.-COMMUTER AIRLINES

5e

SAMPLE

CASE NO. R-4185

October 16, 1970 to November 2, 1970

A dispute exists among the above named craft or class of employees as to who are the representatives of such employees designated and authorized in accordance with the requirements of the Railway Labor Act, and the National Mediation Board is taking a SECRET BALLOT in order to ascertain and to certify the name or names of organizations or individuals designated and authorized for purposes of the Act.

INSTRUCTIONS FOR VOTING

No employee is required to vote. If less than a majority of employees cast valid ballots, no representative will be certified.

If you desire to be represented by:  
UNION OF PROFESSIONAL AIRMEN, Affiliated with the  
Airline Pilots Association, International, AFL-CIO

Mark an "X" in this square . . . . .

If you desire to be represented by:  
ANY OTHER ORGANIZATION OR INDIVIDUAL  
Write name of such organization or individual on the line below:

AND

Mark an "X" in this square . . . . .

NOTICE

1. This is a SECRET BALLOT. DO NOT SIGN YOUR NAME.
2. Marks in more than one square make ballot void.
3. Return this ballot in its entirety. Do not cut, mutilate or otherwise spoil it. If you do so, return ballot at once to Mediator and obtain a new one.

NATIONAL MEDIATION BOARD

6e

APPLICATION FOR INVESTIGATION OF REPRESENTATION DISPUTE

TO THE NATIONAL MEDIATION BOARD,  
Washington, D.C. 20572

A dispute has arisen among the employees of

COMMUTER AIRLINES INC

(Name of carrier)

as to who are the representatives of these employees designated and authorized in accordance with the requirements of the Railway Labor Act. The undersigned, one of the parties to the dispute, hereby requests the National Mediation Board to investigate this dispute, and to certify the name or names of the individuals or organizations authorized to represent the employees involved in accordance with Section 2, Ninth, of the Act.

AIRLINE & AEROSPACE EMPLOYEES UNION, TEAMSTERS LOCAL 732

Parties to dispute

NONE		(Petitioning organization or representative)
NONE		(Organization holding existing agreement, if any, and date thereof)
(Other organizations or representatives involved in dispute)		

02 OCTOBER 74 Date

Craft or class of employees involved

Craft or class of employees involved	If more than one craft or class, list separately	Number of employees involved	Number authorizing representation
1. PILOTS	24	22	
2.			
3.			
4.			
5.			
6.			
7.			

Evidence of representation

IS ENCLOSED	
The evidence of representation has been forwarded under separate cover and consists of AUTHORIZATION CARD	

(Describe, as authorization cards, petition, etc.)

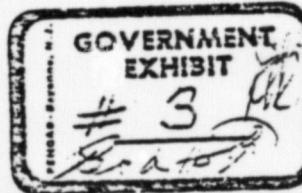
Signed at NEW YORK NY this 2ND day of OCTOBER, 1974

Name

*Nicholas Giraffa*  
(Signature of applicant)  
NICHOLAS GIRAFFA  
PRESIDENT IBT 732

Title

(File this application in duplicate)  
(If necessary, use and attach additional sheet)



MGMFCHA FSCH  
I-022645 Q298 10/25/74  
TLX NMB WSH  
01 GOVT PD WASH D C OCT 25, 1974  
ZIP 22302

western union Mailgram



7e

JOHN B WILLITS  
2417 CENTRAL AVE  
ALEXANDRIA, VA 22302

RE CASE R-4480. BOARD FINDS DISPUTE EXISTS AMONG PILOTS, EMPLOYEES OF BROOME COUNTY AVIATION, INC. D/B/A COMMUTER AIRLINES, INC AND AUTHORIZES MAIL BALLOT ELECTION WITH CUT-OFF DATE OCTOBER 20, 1974 COUNT WASHINGTON, DC. ORIGINAL WILLITS. COPY TO WINSTON, GIRAFFA, GRISWOLD, SKOLER AND FITZSIMMONS.

ROWLAND K QUINN, JR., EXEC SECY, NATIONAL MEDIATION BOARD  
1424 EDT

MGMFCHA FSCH



NATIONAL MEDIATION BOARD  
WASHINGTON, D.C. 20572

8e

October 29, 1974

R-4480

Mr. Jerry Winston, President  
Broome County Aviation, Inc.  
Broome County Airport  
P.O. Box 904  
Binghamton, NY 13902

Dear Mr. Winston:

Enclosed, please find four sets of:

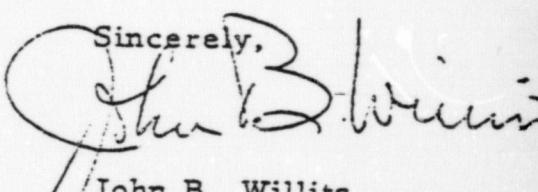
Notice and rules of election

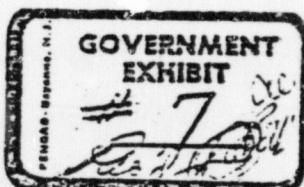
Instructions voting by U.S. Mail

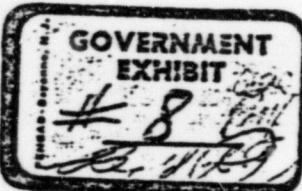
Sample Ballot

One set is for your company file; one for your attorney, Mr. Skoder;  
and two sets for the pilots bulletin board postings.

The mail ballots are being mailed to the employee today.

Sincerely,  
  
John B. Willits  
Mediator





UNITED STATES OF AMERICA  
NATIONAL MEDIATION BOARD  
NOTICE AND RULES OF ELECTION

WASHINGTON, DCCASE NO. R-4480October 29, 1974

## TO ALL CONCERNED:

This notice of election to be held under the Railway Labor Act involves the following:

PILOTS

OF

BROOME COUNTY AVIATION, INC. d/b/a COMPUTER AIRLINES, INC.

## SOUGHT TO BE REPRESENTED BY:

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AIRLINE DIVISION

AND PRESENTLY

UNREPRESENTED

## COUNT OF BALLOTS:

10:00 a.m., November 19, 1974, Washington, D.C.

When applicable, a ballot box voting schedule is attached hereto and made a part hereof.

John B. Willits

MEDIATOR, NATIONAL MEDIATION BOARD, WASHINGTON, DC 20572

THIS IS THE ONLY OFFICIAL NOTICE OF THE ELECTION AND MUST NOT BE DEFACED BY ANYONE.

UNITED STATES OF AMERICA  
NATIONAL MEDIATION BOARD

10e

## NOTICE AND RULES OF ELECTION

## NOTICE

An election, pursuant to Section 2, Ninth of the Railway Labor Act, will be conducted by secret ballot under the supervision of the Mediator, whose name is affixed hereto, among the eligible voters described on the attachment to this NOTICE OF ELECTION, to determine the question of representation presently before the NATIONAL MEDIATION BOARD.

Section 2, Fourth, of the Railway Labor Act, provides that "The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purposes of this Act."

The Railway Labor Act further provides that elections shall be free from interference, influence or coercion, and that it is unlawful for a carrier to interfere with the organization of its employees. Electioneering will not be permitted within the voting area perimeters established by the Mediator.

Violations should be reported immediately to the Mediator or the NATIONAL MEDIATION BOARD, Washington, D. C. 20572.

## RULES OF ELECTION

## BALLOTING

Balloting will be conducted in the manner prescribed in the attached NOTICE OF ELECTION. In the event the election is conducted by United States Mail, official secret ballots will be mailed by the Mediator to the eligible voters. Instructions for voting by mail will be included with each ballot. SHOULD ANY ELIGIBLE VOTER FAIL TO RECEIVE A BALLOT WITHIN A REASONABLE TIME, SUCH VOTER SHOULD PERSONALLY REPORT THE FACT TO THE MEDIATOR IN CARE OF THE NATIONAL MEDIATION BOARD, WASHINGTON, D. C. 20572.

## ELIGIBILITY

All employees in the craft(s) or class(es) referred to in this NOTICE OF ELECTION who appear on the payroll of the carrier during the designated period and who retain an employment relationship with the carrier on the date the vote is taken, and those individuals with rights to recall, not appearing on the above mentioned payroll, whose last service performed was in the involved craft or class are eligible to vote.

A dismissed individual whose request for reinstatement, alleging wrongful dismissal, is pending before proper authorities (including the National Railroad Adjustment Board, other appropriate Boards, or any court of competent jurisdiction) is eligible to participate. A dismissed employee's whose guilt has been determined, and who is seeking reinstatement on a leniency basis is not eligible.

**VOTERS LIST**

A list of the eligible voters has been prepared by the Mediator, based upon information furnished by the carrier, and opportunity has been afforded party representatives to review the list. Only those individuals whose names appear on the list will be permitted to vote, except that upon proof of error, such error will be corrected.

**SUPERVISION  
OF ELECTION**

The Mediator is personally responsible to the National Mediation Board for the conduct of the election. Only the Mediator and an individual voter will be allowed to handle the ballot in order to maintain its secrecy. The Mediator will interpret and apply the rules governing the election and shall decide on all challenged votes. The Mediator's decisions shall be final as to the immediate conduct of the election, but appeal may be made to the National Mediation Board, provided that timely notice of such appeal is given in writing to the Mediator. Each organization that is a party to this dispute may, if it so desires, appoint an observer. Such observers shall be under the supervision and direction of the Mediator at all times.

**ELECTION  
RESULTS**

The Mediator will count and tabulate all ballots at a time and place designated by the Mediator. A report giving the results of the election will be made by the Mediator on a form prescribed by the National Mediation Board and copy of this report will be furnished to the parties to the dispute and the carrier involved.

**CERTIFICATION**

Certification of the name or names of the organization or individual that has been designated and authorized to represent the employees involved in this dispute will be made by the National Mediation Board to the parties to the dispute and the same will also be certified to the carrier.

**DISPOSITION  
OF BALLOTS**

The original ballots and tabulation sheets together with the report of the results of the election by the Mediator will be filed with the National Mediation Board, Washington, D. C. 20572, for reference and safekeeping.

By order of the NATIONAL MEDIATION BOARD.



UNITED STATES OF AMERICA  
NATIONAL MEDIATION BOARD  
WASHINGTON, D. C. 20572

.12e

**INSTRUCTIONS TO ELIGIBLE EMPLOYEES VOTING  
BY U. S. MAIL**

THE CONTENTS OF THE NOTICE OF ELECTION; THE OFFICIAL BALLOT; AND THE INSTRUCTIONS TO ELIGIBLE EMPLOYEES VOTING BY U. S. MAIL CONSTITUTE THE ONLY OFFICIAL RULES GOVERNING THIS ELECTION. NO ONE IS AUTHORIZED TO PROMULGATE ANY RULE OR PROCEDURE CONTRARY TO THOSE REFERRED TO HEREIN

An Official Ballot and a return-addressed mailing envelope marked "BALLOT" (no postage required) are enclosed herewith. To vote by mail, carry out the following instructions:

Mark an "X" in the square of your choice, fold and place the ballot in the "ballot compartment" of the mailing envelope. After sealing the mailing envelope marked "BALLOT", SIGN your name on the first line under the attest on the left side of the ballot envelope, PRINT your name directly under your signature on the line provided. Deposit this envelope, which requires no postage, in the U. S. Mail so as to reach the post office in the city indicated no later than 10:00 A.M.

November 19, 1974

After the mailing envelope has been checked against the eligibility list, your folded ballot will be removed from the envelope and thoroughly mixed with other ballots before being unfolded and counted by the Mediator thus insuring complete secrecy.

**YOUR BALLOT CANNOT BE COUNTED UNLESS YOU COMPLETE  
THE ATTEST ON THE FRONT OF THE MAILING ENVELOPE MARKED  
ED "BALLOT".**

## OFFICIAL BALLOT OF NATIONAL MEDIATION BOARD

Involving  
PILOTS

CASE NO. R-4460

Employees of

BROOME COUNTY AVIATION, INC. d/b/a COINER AIRLINES, INC.

A dispute exists among the above named craft or class of employees as to who are the representatives of such employees designated and authorized in accordance with the requirements of the Railway Labor Act. The National Mediation Board is taking a SECRET BALLOT in order to ascertain and to certify the name or names of organizations or individuals designated and authorized for purposes of the Railway Labor Act.

INSTRUCTIONS FOR VOTING

No employee is required to vote. If less than a majority of the employees cast valid ballots, no representative will be certified.

If you desire to be represented by:

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AIRLINE DIVISION

Mark an "X" in this square . . . . .



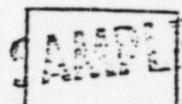
If you desire to be represented by:

ANY OTHER ORGANIZATION OR INDIVIDUAL

Write name of such organization or individual on the line below:

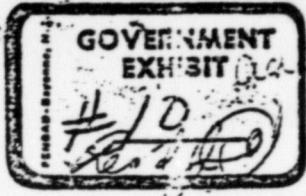
, AND

Mark an "X" in this square . . . . .



## NOTICE

1. This is a SECRET BALLOT. DO NOT SIGN YOUR NAME.
2. Marks in more than one square make ballot void.
3. Do not cut, mutilate or otherwise spoil this ballot. If you should accidentally do so, you may return the spoiled ballot at once to the Mediator and obtain a new one.



14e

Nov 5 2 22 PM '74

NATIONAL MEDIATION  
BOARD

Broome County Airport, P.O. 904, Binghamton, N.Y. 13902 Phone 607-798-9361

November 1, 1974

Mr. Rowland K. Quinn, Jr.  
Executive Secretary  
National Mediation Board  
1230 - 16th Street, N.W.  
Washington, D.C. 20572

Re: Case No. -4480

Dear Mr. Quinn:

Please be advised that Mr. Robert L. Slough, Mr. Michael J. Baan, and Mr. Ira Josephson were terminated by Broome County Aviation for proper cause unrelated to any union activity. These three employees were terminated prior to October 6th, 1974. All of the terminations occurred before the October 20, 1974 eligibility date as established by your agency in the representation matter pending before your agency.

Accordingly, I requested that they not be sent any ballot to give them a vote in the forth-coming election.

I have been informed by the Petitioner, the Teamsters Union, that they intend to take the matter of the discharges of these individuals to court. Your representative indicated to me that under those circumstances they might be given the right to vote. In view of the fact that they were discharged for proper cause unrelated to union activity, I want you to know that I object to their being granted such right. At best, any such votes should be subject to challenge.

-2- Mr. Rowland K. Quinn,

15e

## AVIATION

Broome County Airport, P.O. 904, Binghamton, N.Y. 13902 Phone 607-798-9361

If their votes are determinative, the outcome of the election will have to await the outcome of the court proceedings.

My understanding is that the ballots have been mailed to the pilots working for my company in this week and that the ballots must be returned to the mediation service by November 19, 1974. I hereby request the right to be present at the time the ballots are counted. Will you kindly inform me of the date, time and place?

Sincerely,

~~Jerry Winston~~

President

JW:iw

Enclosures



16e

November 7, 1974

Mr. Jerry Winston, President  
Broome County Aviation, Inc.  
Broome County Airport  
P. O. Box 904  
Binghamton, NY 13902

Re: NMB Case No. R-4480

Dear Mr. Winston:

This will serve to acknowledge your letter of November 1, 1974, in connection with the above-captioned case.

Your comments regarding Mr. Robert L. Slough, Mr. Michael J. Baan and Mr. Ira Josephson have been noted, however, the notice and rules of election provide that a dismissed individual whose request for reinstatement alleging wrongful dismissal, is pending before proper authorities (including the National Railroad Adjustment Board, other appropriate Boards, or any court of competent jurisdiction) is eligible to participate.

The ballots are scheduled to be picked up from the City Post Office at 10:00 a.m. in Washington, D. C. and subsequently counted at the offices of the National Mediation Board.

As a matter of reference and information I am enclosing a copy of the Railway Labor Act and in particular direct your attention to the Carrier's responsibilities outlined under Section 2, Third of the Act and enforcement provisions contained in Section 2, Tenth of the Act.

Thank you for giving me the benefit of your views.

Sincerely,

Rowland K. Quinn, Jr.  
Executive Secretary

Enclosure  
M/oa

## NATIONAL MEDIATION BOARD

WASHINGTON, D.C. 20572



In the matter of :  
**REPRESENTATION OF EMPLOYEES** :  
 of :  
 BROOME COUNTY AVIATION, INC. d/b/a :  
 COMMUTER AIRLINES, INC. :  
 Pilots :

CASE NO. R-4480  
 CERTIFICATION  
 December 4, 1974

The services of the National Mediation Board were invoked by the International Brotherhood of Teamsters on October 2, 1974, to investigate and determine who may represent for the purposes of the Railway Labor Act, as provided by Section 2, Ninth, thereof, the craft or class of Pilots, employees of Broome County Aviation, Inc. d/b/a Commuter Airlines, Inc.

At the time application was received, these employees were not represented by any organization or individual.

The Board assigned Mediators John B. Willits and Thomas B. Ingles to investigate.

FINDINGS

The investigation disclosed that a dispute existed among the employees concerned and by direction of the Board, the mediators were instructed to conduct an election by secret ballot to determine the employees' representation choice.

The following is the result of the election as reported by Mediator Thomas B. Ingles, who was assigned to count the ballots in this case.

Number of Employees Voting:

International Brotherhood  
of Teamsters

Pilots

16

Void Ballots

1

No. of Employees  
Eligible

21

The National Mediation Board further finds that the carrier and employees in this case are, respectively, a carrier and employees within the meaning of the Railway Labor Act, as amended; that this Board has jurisdiction over the dispute involved herein; and that the interested parties were given due notice of investigation.

#### CERTIFICATION

NOW, THEREFORE, in accordance with Section 2, Ninth, of the Rail Labor Act and based upon its investigation pursuant thereto, the National Media Board certifies that the International Brotherhood of Teamsters has been duly designated and authorized to represent for the purposes of the Railway Labor Act the craft or class of Pilots, employees of Broome County Aviation, Inc. d/b/a Commuter Airlines, Inc., its successors and assigns.

By order of the NATIONAL MEDIATION BOARD.

Rowland K. Quinn, Jr.  
Executive Secretary

Law Offices of

19e

Gall, Lane and Powell  
1250 Connecticut Avenue  
Washington, D.C. 20036

JEROME POWELL  
FRANK CUMMINGS  
WILLIAM H. WILCOX  
MAC S. DUNAWAY  
PETER F. HEALEY  
MARSHALL F. BERMAN  
BERNARD J. CASEY  
THOMAS E. GAYTEN

TELEPHONE  
(202) 659-1600

JOHN C. GALL (1941-1957)  
JOHN F. LANE (1941-1972)  
WILLIAM F. HOWE (1943-1963)  
JOHN ERIS POWELL  
COUNSEL

December 9, 1974

HAND DELIVERED

National Mediation Board  
1230 Sixteenth Street, N.W.  
Washington, D.C. 20572

Re: Representation of Employees of  
Broome County Aviation, Inc.  
d/b/a Commuter Airlines, Inc.,  
Pilots, Case No. R-4480

Gentlemen:

Broome County Aviation, Inc., the Carrier in the above captioned proceeding, hereby files objections to the election held by the Board in which the mailed ballots were counted on November 25. The attached Affidavit of Mr. Jerry Winston, the President of the Carrier, gives the factual basis for the objections.

The Affidavit shows that Mr. Winston was given, and has saved and secured, both the original ballot and the duplicate ballot of 5 of the 21 employees who were determined by the Board to be eligible to vote in the election. In addition, a sixth eligible employee told the Chief Pilot that he mailed no ballot. Since 17 ballots counted as eligible were mailed to the Board in time for the vote count, it is apparent that there were serious irregularities in the election which, to preserve the integrity of the election and of the Board's election processes, require that the election be set aside or, at the very least, that an investigation be undertaken by the Board.

Mr. Winston's Affidavit also shows that at least 7 of the eligible 21 employees were sent duplicate ballots without requesting them, contrary to the Carrier's understanding that duplicate ballots were sent only to employees who requested them. If, in fact, duplicates were to have been sent only to employees who requested them, the information that some employees received them exposes another serious irregularity in the election which also calls for investigation by the Board.

GOVERNMENT  
EXHIBIT

# 15

Gall, Lane and Powell

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National Mediation Board  
December 9, 1974  
Page Two

Mr. Winston will cooperate fully in any investigation undertaken by the Board. He will, if the Board desires it, come to Washington to present to the Board's investigators the evidence referred to in his Affidavit and to answer any questions the investigators may have.

We add that we feel strongly that the names of the employees who have given Mr. Winston evidence which shows that the election was irregular should be kept confidential by the Board unless the employees themselves permit their names to be exposed.

Respectfully submitted,

*William H. Willcox*

William H. Willcox  
Attorney for Broome County  
Aviation, Inc.

WHW:ph

Enclosure

A F F I D A V I T

My name is Jerry Winston. I am President of Broome County Aviation, Inc. My business address is P. O. Box 904, Binghampton, New York 13902. My business phone number is (607) 798-9361.

In the recent election conducted by the National Mediation Board there were originally 24 employees on the eligibility list. Three names were struck from the eligibility list before the vote count, leaving 21 employees eligible both to receive ballots and to have them counted if they were mailed in by the final vote date and time, November 25, 1974 at 10:00 a.m. The vote count was 16 ballots mailed in for the union, one ballot mailed in blank. Thus four employees, according to the vote count, did not send in ballots.

I was informed by N.M.B. personnel at the vote count (a) that duplicate ballots were sent only to employees who requested them and (b) that no employee mailed both an original and a duplicate ballot.

Five of the employees on the list of 21 eligible employees each gave me, before the day of the vote count, the original ballot which he had received from N.M.B., and also, after the day of the vote count, the duplicate ballot he had received from N.M.B. I have saved and secured these ten ballots.

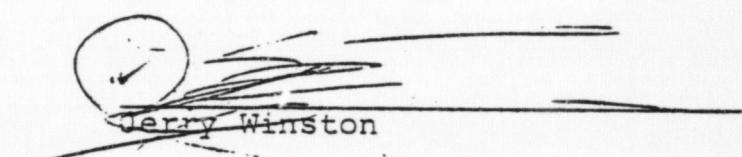
This proof that five employees out of 21 eligible employees did not mail ballots is wholly inconsistent with the

vote count, since the vote count indicates that 17 out of the 21 eligible employees mailed ballots and thus that only four eligible employees did not mail their ballots.

In addition, a sixth employee on the final eligibility list of 21 employees told the Chief Pilot, after the day of the vote count, that he mailed no ballot.

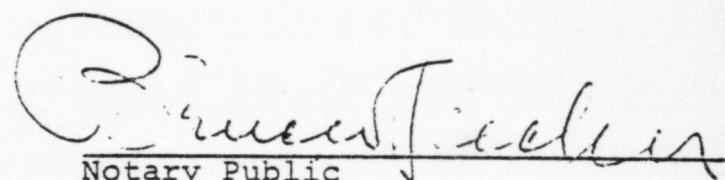
Moreover, all of the five employees who gave me their duplicate ballots said to me that they received the duplicates without requesting them. Two other employees have also told me that they received duplicate ballots without requesting them.

I have read the foregoing Affidavit on two pages and it is true and correct to the best of my knowledge and belief.



Jerry Winston

Subscribed and sworn to before me this 7<sup>th</sup> day of December, 1974.



Notary Public

BRUCE O. BECKER  
Notary Public, State of New York  
Fees Charged in Bronx County  
My commission expires: March 30, 1976

Law Offices of

23e

Gall, Lane and Powell  
1250 Connecticut Avenue  
Washington, D.C. 20036

Dec 16 6 55 AM '74

JEROME POWELL  
FRANK CUMMINGS  
WILLIAM H. WILCOX  
MAT S. DUNAWAY  
PETER F. HEALEY  
MARSHALL F. BERMAN  
BERNARD J. CASEY  
THOMAS E. GAYTEN

JOHN C. GALL (1941-1957)  
NATIONAL BOARD OF ARBITRATION  
JOHN F. LANE (1941-1972)  
WILLIAM F. HOWE (1943-1963)  
BOARD  
JOHN ERIS POWELL  
COUNSEL

TELEPHONE  
(202) 650-1600

December 13, 1974

Mr. Roland K. Quinn  
Executive Secretary  
National Mediation Board  
1230 Sixteenth Street, N.W.  
Washington, D.C. 20572

Re: Representation of Employees of  
Broome County Aviation, Inc.  
d/b/a Commuter Airlines, Inc.,  
Pilots, Case No. R-4480

Dear Mr. Quinn:

Thank you for your letter of December 10. We wish to, and will, supply you with not only the names of the employees who we contend could not have voted an original or duplicate ballot but also the documentary evidence (ballots) which support the contention.

As we indicated in our December 9 letter, we are very concerned about confidentiality and most anxious that the names of the employees be kept confidential unless the employees themselves permit their names to be exposed. We take this position because we want to avoid any possibility of retaliation against the employees for their having come forward with this evidence. It seems to us that it may well be possible that your investigation will convince the Board that the election was irregular without any necessity of having to expose the names of the employees. What we ask of you at this time is simply that you tell us that the names will be kept confidential during the initial investigation period and that if you determine that (a) the employees involved do not wish to have their names exposed and (b) it is necessary to expose their names in order to complete a sufficient investigation, you will let me know before you do expose the names. Mr. Winston does not wish to be the instrument of the employees' names being exposed against their will.

GOVERNMENT  
EXHIBIT

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Gall, Lane and Powell

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Mr. Roland K. Quinn  
December 13, 1974  
Page Two

If you will let me know whether this arrangement is agreeable to you, either by letter or by a phone call, we will immediately supply you with the names and the ballots.

Sincerely yours,

*William H. Willcox*

William H. Willcox  
Attorney for  
Broome County Aviation, Inc.

WHW:ph

Law Offices of  
Gall, Lane and Powell  
1250 Connecticut Avenue  
Washington, D.C. 20036

JEROME POWELL  
FRANK CUMMINGS  
WILLIAM H. WILLCOX  
MAC S. DUNAWAY  
PETER F. HEALEY  
MARSHALL F. BERMAN  
BERNARD J. CASEY  
THOMAS E. CATTEN

TELEPHONE  
(202) 638-1600

JOHN C. GALL (1941-1957)  
JOHN F. LANE (1941-1972)  
WILLIAM S. HOWE (1943-1963)

JOHN ERIS POWELL  
COUNSEL

December 27, 1974

Mr. Roland K. Quinn  
Executive Secretary  
National Mediation Board  
1230 Sixteenth Street, N.W.  
Washington, D.C. 20572

Re: Representation of Employees of  
Broome County Aviation, Inc.  
d/b/a Commuter Airlines, Inc.,  
Pilots, Case No. R-4480

Dear Mr. Quinn:

Thank you for your letter of December 23rd.

Broome County Aviation, Inc. has proof that the following seven individuals who were eligible voters in the election did not vote an original or a duplicate ballot:

Gerald Excell  
R. Paul Floto  
Jon Harrington  
Michael Kleitz  
Bela M. Puszta  
Jan Solberg  
Douglas A. Ton

Broome County Aviation, Inc. will cooperate fully with your investigation.

We again emphasize, as we have in our previous letters regarding this matter, the importance of confidentiality in your investigation, and most urgently request that the Board do everything it can to preserve such confidentiality for the protection of the employees.

Sincerely yours,

*William H. Willcox*

William H. Willcox  
Attorney for  
Broome County Aviation, Inc.



NATIONAL MEDIATION BOARD  
WASHINGTON, D.C. 20572

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I R. Paul Flato, hereby affirm

that I cast a ballot in the election conducted in NMB Case No. R-4480 involving representation of Pilots, employees of Broome County Aviation/Commuter Airlines.

J. H. Blawie  
Witness

R Paul Flato  
Signature

Sealed

Date: 2 Jan 1975



NATIONAL MEDIATION BOARD  
WASHINGTON, D.C. 20572

27e

I MICHAEL C. KLEITZ, hereby affirm  
that I cast a ballot in the election conducted in NMB Case No. R-4480  
involving representation of Pilots, employees of Broome County  
Aviation/Commuter Airlines.

John B. Weiss  
Witness

Michael C. Kleitz  
Signature

Sealed

Date: Jan 3, 1975



NATIONAL MEDIATION BOARD  
WASHINGTON D.C. 20572

S<sup>28e</sup> SAYRE 1/7-

JAN 9 4 04 PM '75  
NATIONAL MEDIATION  
BOARD

ATTENTION MR. R. KASHER

This letter is to inform you that I did vote and signed my name to the ballot in the election for the Teamsters Union representing the pilots of Commuter Airlines and Broome Co. Aviation Bingham N.Y.

VERY TRULY YOURS  
CAPTAIN JAN 14 / 1975

Sworn to and subscribed before me  
this 7th day of January 1975

John Fedorka  
Notary Public

JOHN FEDORKA Notary Public  
Bucks County, Pa.  
My Commission Expires 7-26-76



NATIONAL MEDIATION BOARD  
WASHINGTON, D.C. 20572

29e

January 9, 1975

Mr. William H. Willcox  
Attorney for Broome County  
Aviation, Inc.  
Gall, Lane & Powell  
1250 Connecticut Avenue, N. W.  
Washington, DC 20036

Re: Representation of Employees of Broome  
County Aviation, Inc. d/b/a Commuter  
Airlines, Inc., Pilots, Case No. R-4480

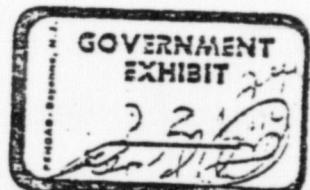
Dear Mr. Willcox:

This has reference to your letter of December 9, 1974, in which you, representing Broome County Aviation, Inc. d/b/a Commuter Airlines, Inc., raised objections regarding the propriety of the mail ballot election in the above-referenced National Mediation Board case. Your letter was supplemented on December 27, 1974, with the names of seven (7) individuals who you contend could not have voted an original or a duplicate ballot in the referenced Board election.

The National Mediation Board has thoroughly reviewed its files in this matter and conducted an independent on-the-property investigation in which it has been confirmed that voting in the election was proper. It has been conclusively determined that only eligible employees voted in the election, either by an original or a duplicate ballot, and that only eligible employees' votes were tabulated and counted.

Therefore, the Board finds that its certification issued on December 4, 1974, to the International Brotherhood of Teamsters as the designated bargaining representative was proper in all respects.

Additionally, The Carrier's attention is directed to the provisions of the Railway Labor Act which require that carriers meet and treat with the designated representatives of the involved employees. The Carrier is further advised that Section 2 of the Railway Labor Act, Paragraph Fourth, mandates



- 2 -

that no carrier deny or in any way question the right of its employees to join, organize or to remain members of a labor organization of their choice. The employees' choice is clear from the results of the election conducted by the Board in the instant proceeding and the Carrier is advised that no legal basis exists for questioning the representative of the pilots of Broome County Aviation, Inc. d/b/a Commuter Airlines, Inc.

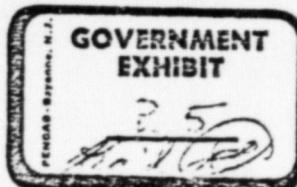
By direction of the NATIONAL MEDIATION BOARD.

Rowland K. Quinn, Jr.  
Executive Secretary

cc-to: Mr. J. Winston, President  
Broome County Aviation, Inc.  
d/b/a Commuter Airlines, Inc.  
Box 904  
Binghamton, NY 13902

Mr. M. L. Griswold  
Director, Airline Division  
International Brotherhood of Teamsters  
5959 W. Century Boulevard, Room 1020  
Los Angeles, CA 90045

Mr. Nicholas Giraffa, President  
International Brotherhood of Teamsters-Local 732  
432 Park Avenue South, Suite 1109  
New York, NY 10016



Ron Williams

31e

# BONWINTER AIRLINES, INC.

Broome County Airport, P. O. 904, Binghamton, N. Y. 13902 Phone 607-798-9361

TO: All Flight Crews  
FROM: T. E. Bell, Chief Pilot  
DATE: September 05, 1974  
SUBJ: (1) Inadvertant over-duty  
      (2) Metro  
            (A) S.A.S. Protectors  
            (B) Gust Locks  
            (C) Chocks  
            (D) 04M New S.A.S. and Cabin Speaker  
            (E) Brushing Door Seal Each Stop  
      (3) New Flight Crew Members  
      (4) Center Stored Flight Plans  
      (5) Policy on Use of 14-32 JFK  
      (6) JFK E.A.L. Advisement and Announcements

(1) Crews are reminded on inadvertant over-duty. Time situations that, if it becomes obvious, are after normal office hours become your responsibility to communicate the problem. This does not mean leave a note in the book and to h--- with it!!! The first choice is, if there is someone of similar equipment qualification who is duty eligible, simply call him and set it up. If you have a problem with that, call me. (Obviously, I would prefer that you work it out and leave me a note!)

(2) In the operation and securing of Swearingen SA-226TC "Metro" Aircraft, we are suffering a slippage of discipline. I should not like to repeat the bizarre series of damages which occurred late last winter. Look at yourself critically!

(A) When an aircraft is parked longer than a turn-around, the S.A.S. Protector should be installed. You are reminded that the vane should always be free inside the protector and the protector should never be jammed against the vane or vane arm either during installation or when installed. Note also that the installation procedure for the newer aircraft (55M and 56M) is different. If you have any doubt about this, see Capt. Briggs or myself for some dual on it.

(B) The Gust Locks on Metros are an excellent device and protect the equipment. Yet, frequently, they are being left unlocked. Off hand, I can see no reason to leave them off at any time the air-

craft is parked, including a turn-around.

(C) Some aircraft are coming up short chocks. If you find one short at pre-flight, see that it is replaced.

(D) As 04M returns to service, it will have a new (new type) S.A.S. System installed. In addition, the cabin P.A. system has been modified to allow an output comparable to the newer aircraft.

(E) We are putting new brushes in all four (4) Metros. The main cabin door seal under the flap should be brushed free of grit at each 2-Engine stop and prior to boarding on origination.

(3) The following new flight crew members have joined our staff. At present they are checked out on piston equipment:

(A) Capt. Bela ("Bill") M. Puzstai

(B) F/O Peter F. Johnson

(C) F/O Ivar Ore

(D) F/O Douglas Ton

(E) F/O R. B. Williams has been assigned as morning coordinator/dispatcher. His normal hours are 06:00 until 15:00. In general, he will fly flight 150. This does not relieve the assigned first officer of counter duties.

(4) It is possible that there may be some omissions on your center stored flight plans until Sept. 08. To prevent a delay, check for presence of a strip. If any doubt, file! You are further reminded that all F.A.R. required alternates must be hand filed.

(5) This amends company policy issued May 05, 1974 regarding operations on Runway 14-32 at JFK.

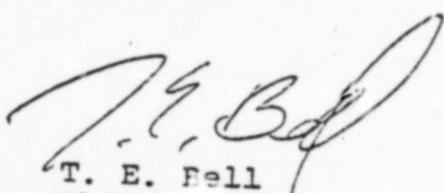
#### AIRCRAFT

#### POLICY ON JFK 14-32

Piper PA-31 Navajo and PA-31-350 Chieftain	No restrictions - Pilot's Judgement
Beech D-18/C-45 and Dumod	<u>Daylight operations only</u> <u>Landing-Pilot's Judgement</u> <u>Take-off Rule of 6 &amp; 60°</u> That is, 6 or less passengers <u>and</u> 60°F or less temperature.
Swearingen SA-226TC Metro	Operations Prohibited

(6) Eastern/JFK has requested that we call them when we arrive on the gate for an "available for check-in" announcement and when boarding for a "boarding" announcement. The A.P.I. number is 58253. Please post this in your flight bag insert JFK section.

Your continuing cooperation on the foregoing is appreciated.



T. E. Bell  
Chief Pilot



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## AVIATION

Broome County Airport, P.O. 904, Binghamton, N.Y. 13902 Phone 607-729-3524

December 23, 1974

Airline-Aerospace  
Employees  
Teamster Local 732  
432 Park Ave. South - Suite 1109  
New York City, N.Y. 10016

Attention: William F. Genoese, Secretary-Treasurer

Dear Mr. Genoese:

Thank you for your letter of December 20, 1974. As you know, Broome County Aviation, Inc. believes that the election was irregular and that a new election should therefore be held, and we have so informed the National Mediation Board, giving the reasons for our position. We therefore, have the most serious reservations about engaging in discussions with the Union pending the National Mediation Board's investigation of this matter, which we believe will lead to a new election.

In any event due to the holidays, the earliest we could commence discussions with the Union would be January 10, 1975, one of the days mentioned in your letter. Prior to that time, and no later than January 6, 1975, we will inform you in more detail of our position with respect to negotiations while our objections to the election are pending.

Sincerely,

  
Jerry Winston  
President  
JW:iw

# BROOME COUNTY AIRPORT AVIATION

Broome County Airport, P.O. 904, Binghamton, N.Y. 13902 Phone 607-729-3524

35e

January 3, 1975

William F. Genoese, Secretary-Treasurer  
Airline-Aerospace Employees  
Teamster Local 732  
432 Park Ave. South - Suite 1109  
New York City, New York 10016

Dear Mr. Genoese:

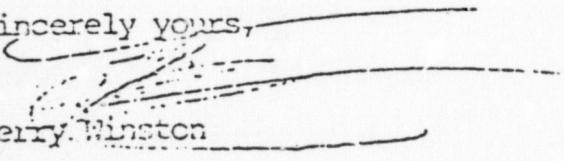
This letter is in further response to your letter of December 20, 1974 and your letter of December 27, 1974.

As you are aware, irregularities in the pilots' mail ballot election have caused the Company to challenge the election and the National Mediation Board's certification of the Teamsters Union based on the election. In response to the Company's challenge of the election, the Board has undertaken an investigation.

There is very substantial evidence that more ballots were received by the Board in the mail than were mailed by pilots eligible to vote. Because of these irregularities, a serious question exists in our opinion as to the true desires of the pilots with respect to representation by the Teamsters Union. We believe these irregularities should lead and will lead to a new election with proper safeguards for the ballots.

In order not to compromise the free choice of the pilots and co-pilots, the Company must refuse to engage in negotiations with the Teamsters Union, unless and until there is a resolution of the questions raised by these irregularities.

Sincerely yours,

  
Jerry Winston



36e

# AVIATION

Broome County Airport, P.O. 904, Binghamton, N.Y. 13902 Phone 607-729-3524

April 26, 1972

Subject: Co-Pilot Upgrading & Reserve Captain Program

(A) This is to set forth the policy in regard to upgrading of co-pilots to captain status within the needs of our Flight Operations.

In general co-pilot positions are considered learning pilot positions. Those serving in this capacity are expected to invest diligent efforts to improve their pilot proficiency and qualifications.

During this period they will fly with numerous captains all of whom have many pearls of knowledge from the depth of their experience which are worthy of the co-pilot efforts to learn.

As captains reach a level of experience within the operation they are designated as instructor captains giving them authorization to teach in certain aircraft and operations which we conduct.

Co-pilots to be considered for upgrading will be those who fully avail themselves to the training and knowledge available to them. Co-pilots who have the move-up goal in mind are expected to exercise a mature initiative towards this goal.

Instructor captains are not implored to try to teach every co-pilot. Only those who demonstrate a desire to learn are really worthy of the effort. The disinterested and those who already know all there is to know about aviation and flying should seek other employment since it's doubtful that they will ever be able to perform within the company policies and objectives.

The company policy and preference is to promote captains from within rather than hiring qualified individuals from outside the organization.

A co-pilot's long exposure to policies, practices, operating philosophy and procedures affords a considerable mutual advantage over a pilot from outside the organization.

Before a co-pilot can be considered for upgrading two conditions must exist. He must meet FAA, insurance and other requirements on experience and a need for his services must exist.

Having met the forgoing criteria when a line co-pilot reaches the following experience and certification levels:

- (1) Total Pilot experience 2500 hours
- (2) Total Multi-Engine experience 1000 hours
- (3) Airline transport certificate with multi-engine land rating.
- (4) Current first class medical with EKG
- (5) Not less than 12 months employment as a pilot with the company

(B) He will be considered as a candidate for reserve captain qualification. To qualify he must complete:

- (1) Such oral and written examination as are pertinent
- (2) A 6 month captain check on one type of aircraft

(C) Upon qualification as a reserve captain he may be:

- (1) Dispatched as a captain in the type of aircraft for which qualified
- (2) May fly left seat with passengers in other operated aircraft (at the discretion of the assigned captain)
- (3) May count the captain time flown as over 60 hours for pay purposes provided that his total is over 60 hours total that month. (I.E. 60 hours co-pilot and 7 hours captain all captain would go at captain incentive rate)

(D) A reserve captain will move from reserve to full captain status when:

- (1) For any quarter his captain time exceeds 60% of his total time flown and/or
- (2) Operational requirements necessitate his captain qualification in a second type of aircraft
- (3) Upon reaching full captain status his base pay will be: current captain starting pay.

*J* Pilot & Co-Pilot Terminations  
January 1, 1971 to October 2, 1974

38e

1971

		<u>Reason Terminated</u>	<u>Source</u>
Kenker	Oscar (PART TIME)	Lay off	B
Knipe	Richard	Quit (Q)	B
Loeffler	Helmut	Fired (F)	R
Pell	Stanley	Q	BR
Shea	Thomas	Q	BP
Smith	JAN	F	B
Strombergh	V.	F	BR
Uhrin	George	Q	BR
Wagner	H.	Q	B
Whitney	Lance	Q	B

1972

Cheek	John	Q	BS
FitzGibbon	George	Q	BSR
Lindsay	James	Q	BSR
Meyer	Dean	F	BR
Mink	George	Q	BSR
Odgen	William	Q	BR
O'Neil	John	F	BSR
Riger	Fred (PART TIME)	Lay off	B
SchwiKert	Stephen	Q	R
Smith	DANA (PART TIME)	LAY OFF	BS



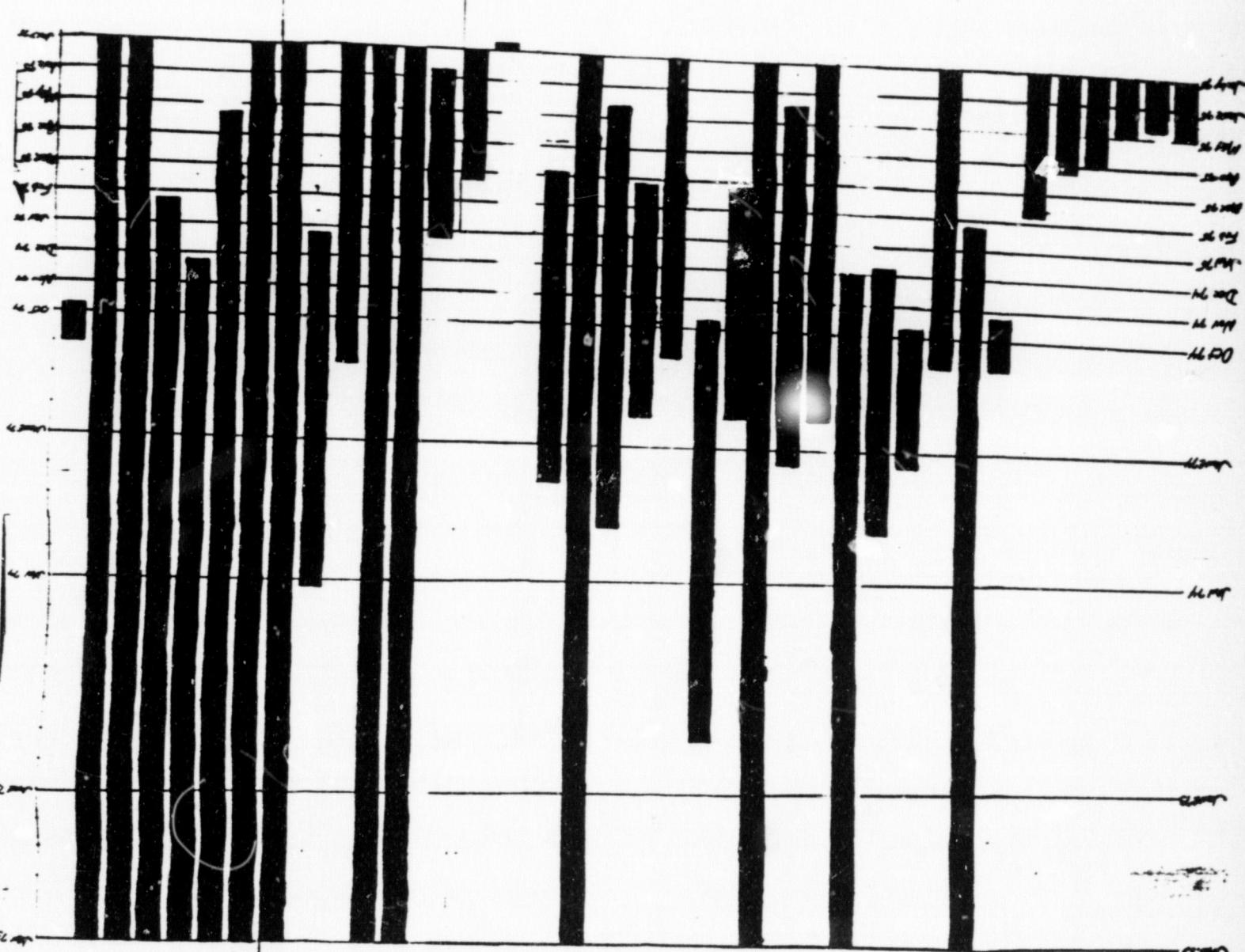
B = Briggs  
S = Solberg  
R = Company Records

1973

	<u>Reason Terminated</u>	<u>Source</u>
FERRARI Gregory	F	BS
KYGAR RALPH	F	B
PFROMMER Theodore	Q	BS
Whitney Lance	Q	BS
WILLIAMS IVAN	Q	BSR
Yehuda Nathan	Q	BS

11/1/74 - 10/2/74

CARR David	Q	BS
Doris William Jr.	Q	BSR
Johnsen Roy	Q	BS
Ore IVAR	Q	BS
Peck Rand	Q	BS
Schade Russell	Q	BSR
	Q	BSR



Michael Baer  
 • Theodore Bell  
 Paul Briggs  
 Gerald Excell  
 William Feder  
 • Paul Floto  
 Jon Harrington  
 Michael Kleitz  
 • William Lamos  
 • Bela Puszta  
 Donald Reeve  
 • JAN Solberg  
 F. J. Greenwall Sr.  
 Henry Melich  
 Francis Plonowski  
FBI Co-Pilots  
 Debra D'Laurentis  
 Richard Dolan  
 Neiman Fairchild  
 James Hargel  
 Peter Johnson  
 Tera Josephson  
 Dennis Lakimore  
 Gary Leonard  
 Thomas Lewis  
 • HUGH McDougald  
 John McEvily  
 Paul Shell  
 Robert Slough  
 • Douglas TON  
 Ron Williams  
 Tina Ore  
 William Peterkin  
 John Moretti  
 Frank McKeon  
 Joseph Moto Jr.  
 Alan Gairin  
 Paul Darby

ROBERT L. SLOAN

GOVERNMENT  
EXHIBIT

41e

41-EL

6/74

ON A FRIDAY MR. SLOAN  
WAS NOT IMPOSED ON A SPECIFIC  
FLIGHT. AT 15:00 SCHEDULE  
CHANGES REQUIRED HIS SERVICES.  
HE WAS NOT AVAILABLE - IT  
WAS LATER DETERMINED THAT HE  
WAS IN ROCHESTER AT THAT  
TIME BY MB FARR. I DISCUSSED  
IT WITH HIM AND IT WOULDN'T HAPPEN  
 AGAIN.

9/74

A SCHEDULE CHANGE REQUIRED  
HIS SERVICES 3 CALLS TO  
HIS OFFICE WERE INEFFECTIVE  
IN REACHING HIM. - LATER THAT  
EVENING HE CALLED FROM  
ROCHESTER. - SUBSEQUENT DISCUSSION  
BY NYSDOT & CAPT. REEVE NETTED  
NO SATISFACTORY ANSWERS

9/74

CAPT. REEVE MISSED A SCHEDULE  
CHANGE. AT 20 MINUTES PRIOR  
TO FLIGHT TIME THE OFFICE WAS  
NOTIFIED AND ADVISED THEM OF THE  
PROBLEM. UPON ARRIVAL AT  
ELMIRA - THE PASSENGERS THERE  
WERE NOT RECEIVED, COATED (AN  
EQUIPMENT CLOUD TO EQUIPMENT USED)



# BROOME COUNTY AVIATION

Broome County Airport, P.O. 904, Binghamton, N.Y. 13902 Phone 607-729-3424

First Officer - R. B. Williams  
Broome County Aviation  
Binghamton, New York

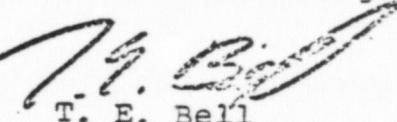
Dear Ron:

I'd like to take this opportunity to thank you personally for the fine efforts you have made over the last year in improving your work attitudes and level of co-operation.

This has manifested itself especially during the unusually high operational activity of recent weeks.

I feel gratified that we had a problem, discussed it, and you put a great deal of sincere effort into its solution.

I feel this reflects a maturing of professionalism and I count it among the assets of this organization.

  
T. E. Bell  
Director of Flight Operations

TB/mp

Tom Lewis

12/31/74

To Tom Lewis:

WAS SCHEDULED FOR  
 FLT. 150 C 18:00 12/30/74  
 DID NOT SHOW FOR FCT.  
 HAD TO CALL F/O TIN  
 FOR FCT. DEPARTURE  
 DELAYED ~~15~~ :20 -  
 (CAPT. EXCUSE)

LEWIS - 12/74

WENT ON UNAUTHORIZED  
 L/O/A. - WAS TO  
 BE AWAY 2 DAYS.  
 AND TO CALL IF  
 HE WANTED FURTHER  
 L/O/A - DID NOT  
 CALL - STAYED  
 AWAY 2 NOBAS.

GOVERNMENT  
EXHIBIT

*Held.*

BROOME COUNTY AVIATION, INC.  
COMPUTER AIRLINES, INC.

FINANCIAL STATEMENTS

DECEMBER 31, 1974

PIAKER, LYONS & COMPANY  
CERTIFIED PUBLIC ACCOUNTANTS  
PARKWAY EAST BUILDING  
2521 VESTAL PARKWAY EAST  
VESTAL, NEW YORK 13950  
607 729-9373

March 7, 1975

Mr. Jerry Winston, President  
Broome County Aviation, Inc.  
P. O. Box 904  
Binghamton, New York 13902

Dear Mr. Winston:

We have examined the accompanying Balance Sheets of Broome County Aviation, Inc. and of Commuter Airlines, Inc. as at December 31, 1974, and 1973, and the related Statements of Income, Changes in Retained Earnings, and Changes in Financial Position for the years then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying statements present fairly the financial position of Broome County Aviation, Inc. and its affiliate, Commuter Airlines, Inc., as of December 31, 1974, and 1973, and the results of their operations and changes in financial position for the years then ended in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

We have also examined the Combined Balance Sheets of both aforementioned affiliated corporations as at December 31, 1974, and 1973, and their Combined Statements of Income for the years then ended. The combined statements eliminate all intercompany transactions and account, and, in our opinion, present fairly on a combined basis the financial position of Broome County Aviation, Inc. and Commuter Airlines, Inc., and the results of their combined operations for the years then ended in conformity with generally accepted accounting principles consistently applied with the prior year.

Very truly yours,

*Piaker Lyons & Company*  
PIAKER, LYONS & COMPANY

BROOME COUNTY AVIATION, INC.  
BALANCE SHEETS  
AS AT DECEMBER 31,

	<u>ASSETS</u>	<u>1974</u>	<u>1973</u>
<u>Current Assets</u>			
Cash in Bank and on Hand		\$ 35,767	\$ 12,682
Accounts Receivable (Net of Allowance for Doubtful Accounts of \$1,000 in 1974)		42,328	43,034
Gas Tax Refunds Receivable		41,033	16,241
Inventories (Note 2)		109,778	84,339
Prepaid Expenses		61,632	36,941
Income Tax Refunds Receivable		30,734	8,370
<u>Total Current Assets</u>		<u>321,272</u>	<u>201,607</u>
<u>Equipment - At Cost (Note 2)</u>			
Aircraft		2,607,638	1,662,623
Shop Equipment		55,106	54,669
Office Equipment		36,354	11,255
Fuel Storage Equipment		53,905	53,902
Vehicles		34,714	33,227
<u>Less: Accumulated Depreciation</u>		<u>2,787,717</u>	<u>1,815,676</u>
<u>Net Equipment</u>		<u>1,606,103</u>	<u>991,675</u>
<u>Other Assets</u>			
Deposits Receivable		307	331
Loans from Officers - Net		<u>7,243</u>	<u>11,484</u>
<u>TOTAL ASSETS</u>		<u>\$ 1,934,925</u>	<u>\$ 1,205,097</u>
<u>LIABILITIES AND STOCKHOLDERS' EQUITY</u>			
<u>Current Liabilities</u>			
Accounts Payable		\$ 162,969	\$ 104,313
Accrued Expenses and Taxes Payable		55,548	37,324
Due to Commuter Airlines, Inc. - Current Portion (Note 4)		280,714	85,714
Corporate Income Taxes Payable		6,755	-0-
<u>Total Current Liabilities</u>		<u>505,986</u>	<u>227,351</u>
<u>Long Term Liabilities</u>			
Notes Payable - Other		120,000	20,000
Use Tax Payable - Due After One Year		96,933	45,891
Due to Commuter Airlines, Inc. - Long Term (Note 4)		455,010	293,280
Reserve for Deferred Income (Note 2)		10,315	13,102
<u>Total Long Term Liabilities</u>		<u>682,258</u>	<u>372,273</u>
<u>Total Liabilities</u>		<u>1,188,244</u>	<u>599,624</u>
<u>Stockholders' Equity</u>			
Capital Stock - Common 1000 Shares, No Par, Authorized 100 Shares Issued		10,000	10,000
Retained Earnings (Exhibit D)		<u>736,681</u>	<u>605,473</u>
<u>Total Stockholders' Equity</u>		<u>746,681</u>	<u>615,473</u>
<u>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</u>		<u>\$ 1,934,925</u>	<u>\$ 1,215,097</u>

See attached notes to financial statements.

BROOME COUNTY AVIATION, INC.NOTESDECEMBER 31, 1974NOTE 1 - BUSINESS

The Company realizes income from three major sources as fixed base operator for the Broome County Airport, namely (1) charter flights for passengers and freight, some on a contractual basis; (2) mail flights on contract with the U.S. Post Office Department; and (3) sales of gas fuel and oil and aircraft maintenance services. The stock in Broome County Aviation, Inc. is solely owned by its president, Mr. Jerry Winston; and the stock in Commuter Airlines, Inc. is solely owned by Mrs. Jerry Winston.

NOTE 2 - SIGNIFICANT ACCOUNTING POLICIES

A. Inventories - Inventories consist of gas fuel and oil maintained for sale and the needs of the Company's own aircraft and are valued at cost, which because of rapid turnover, is essentially equivalent to replacement market price. In addition there is maintained a basic inventory of supplies and parts, largely for the Company's own use, which is carried at an imprest value of \$40,000.

B. Equipment - The Company depreciates its equipment for both tax and financial report purposes as follows:

Aircraft on the double declining balance method over 8 years.

Shop, office and fuel storage equipment on the straight line method over 5 years.

Vehicles on the double declining balance method over 4 years for automobiles and 8 years for trucks.

For FAA purposes, certain aircraft are registered to Broome County Aviation, Inc. and others to Commuter Airlines, Inc. For accounting purposes, with the exception of two metro turbojets, all aircraft have been carried on Broome County Aviation, Inc. books. Broome County Aviation, Inc. charges Commuter Airlines, Inc. for its usage of such aircraft and related costs.

As explained in Note 2 of the Commuter Airlines, Inc. report, all fixed assets of Broome County Aviation, Inc. and its affiliate, Commuter Airlines, Inc., are pledged as collateral for the note payable to the Bank of New York, Southern Tier, et al.

In recent years, the Company's normal experience has been to have occasional sales of aircraft used in operations. Accordingly, such gains are classified as ordinary.

C. Deferred Income - The Company will realize a cash saving of \$.354¢ per gallon in purchases from its present fuel supplier over the term of the current contractual agreement. Such savings is recognized as income by the

BROOME COUNTY AVIATION, INC.  
NOTES  
DECEMBER 31, 1974

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NOTE 2 - SIGNIFICANT ACCOUNTING POLICIES (cont.)

Company as it makes its purchases. In the current year, purchases amounted to 187,197 gallons, and the income recognized amounted to \$2,787. If the current supplier is replaced, any unrealized income will become due and payable to the supplier.

D. Investment Credit - Income Tax Payable - The Company has adopted the "flow through" method of recognizing investment tax credit on purchases of new fixed assets. Such credit is recognized totally in the year of fixed asset acquisition by a corresponding reduction in the income tax provision for that year. In the current year, the net investment tax credit benefit amounted to \$66,588, \$40,561 of which reduced the current year's tax and \$26,027 of which was a carry-back to prior years resulting in a refund.

The Company's tax returns have been examined by the Treasury Department through December 31, 1973. Management anticipates no material change in its financial position upon examination of any of the statutorily open years.

NOTE 3 - PENSION PLAN

The Company adopted a qualified pension plan in 1962, approved by the Internal Revenue Service. The plan provides for a monthly retirement income to participants at age 65 of 10% of first \$400 of monthly salary plus 19% of monthly salary in excess of \$400. All employees are eligible after completion of one year service with the Company. At the year end, the plan was approximately \$32,000 underfunded which deficiency the Company plans to make up over the next eight years at approximately \$4,000 per year. No significant changes in the plan are contemplated because of new legislation in 1974 affecting employee retirement programs.

NOTE 4 - DUE TO COMMUTER AIRLINES, INC.

The Company together with its affiliate has negotiated in 1973 a loan of \$1,200,000 from its bank to purchase two new Metro liner turbojet aircraft. One is carried on the Company's books and the other on its affiliate's. The repayment terms call for repayment over 7 years with interest at a variable rate of 6% to 7½%. Although the full liability to the bank is carried on Commuter's books, the Company's share is shown as part of the amount due Commuter Airlines. In addition in 1974, the Company and its affiliate borrowed funds to purchase two additional metro liner turbojets. At year end the balance due was \$390,000 which it is anticipated will be paid back substantially in 1975. The Company's share of this new loan is also shown as part of the amount due Commuter Airlines.

BROOME COUNTY AVIATION, INC.NOTESDECEMBER 31, 1974NOTE 5 - COMMITMENTS AND CONTINGENT LIABILITIES

The Company leases its premises from Broome County for a term of fifteen years ending December 31, 1983. The lease calls for annual payments of \$35,000 in 1975, increasing by \$700 annual increments to \$40,000 in 1983. The Company also leases services/space at some of its termination airports on a short term basis for a total annual commitment of approximately \$12,000 per year.

In December, 1974, flight personnel of the Company elected to associate themselves with the Teamsters Airline Division - Local 732 for collective bargaining purposes. As of the balance sheet date no contract has been entered into.

Counsel for the Company has advised that they are not aware of any law-suits or claims pending against the Company.

BROOME COUNTY AVIATION, INC.  
STATEMENTS OF INCOME  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1974</u>	<u>1973*</u>
<u>Net Sales</u>	\$ 2,183,527	\$ 1,522,782
<u>Gain on Sale of Aircraft</u>	<u>-0-</u>	<u>31,297</u>
<u>Gross Income</u>	<u>2,188,527</u>	<u>1,554,079</u>
 <u>Operating Expenses</u>		
Salaries	613,274	467,385
Parts and Fuel Expense	582,614	336,980
Rent and Landing Fees	81,098	54,926
Insurance	90,144	95,899
Telephone and Utilities	50,216	31,388
Payroll and Other Taxes	54,392	40,823
General Flight Expense	16,259	19,398
Professional Fees	18,500	13,125
Office and Miscellaneous Expense	18,568	16,021
Advertising and Promotion	3,265	5,259
Shop Expense	24,252	26,104
Interest Expense - Net	110,315	62,707
Pension Plan (Note 3)	<u>40,000</u>	<u>31,500</u>
 <u>Total Operating Expenses</u>	<u>1,702,897</u>	<u>1,201,515</u>
 <u>Operating Income Before Depreciation</u>	485,630	352,564
 <u>Less:</u> Depreciation Expense (Note 2)	<u>358,291</u>	<u>221,078</u>
 <u>Operating Income</u>	127,339	131,486
 <u>Less:</u> Income Tax for the Period - Current Year	15,802	12,930
Refund Due to Carryback of Excess		
Investment Credit (Note 2)	( 25,787)	-0-
 <u>Net Income to Retained Earnings</u>	<u>\$ 137,324</u>	<u>\$ 118,556</u>
 <u>Earnings Per Share</u>	<u>\$ 1,378.24</u>	<u>\$ 1,185.56</u>

\* 1973 Reclassified to conform with 1974.

See attached notes to financial statements.

BROOME COUNTY AVIATION, INC.  
STATEMENT OF CHANGES IN FINANCIAL POSITION  
FOR THE YEARS ENDED DECEMBER 31,

1974                    1973

Funds Provided By:

Net Income from Operations	\$ 137,324	\$ 118,556
Add: Expenses Not Requiring Use of Funds - Depreciation	<u>358,291</u>	<u>221,078</u>
<u>Funds Provided by Operations</u>	<u>495,615</u>	<u>339,634</u>
Disposition of Fixed Assets (Book Value)	-0-	38,703
Increase in Long Term Loans from Affiliate	161,730	-0-
Increase in Long Term Borrowing - Others	100,000	9,819
Increase in Deferred Use Tax Payable	51,042	45,891
Decrease in Loans to Officers	4,241	-0-
Decrease in Deposits Receivable	24	-0-
Adjustment by Treasury Department of Prior Years		
Tax Returns	<u>3,206</u>	<u>-0-</u>
<u>Total Funds Provided</u>	<u>815,858</u>	<u>434,047</u>

Funds Applied To:

Acquisition of Fixed Assets	972,041	806,646
Less: Prior Payments	-0-	(285,160)
Reduction of Deferred Income	2,787	2,423
Increase in Loans to Officers	-0-	10,279
Increase in Deposits Receivable	-0-	18
<u>Total Funds Applied</u>	<u>974,828</u>	<u>534,206</u>
<u>Net Funds Applied (Decrease in Working Capital)</u>	<u>\$(158,970)</u>	<u>\$(100,159)</u>

Components of Working Capital - Increase (Decrease)

Current Assets

Cash in Bank and on Hand	\$ 23,085	\$( 88,463)
Accounts Receivable	( 706)	( 19,218)
Gas Tax Refunds Receivable	24,792	( 8,590)
Inventories	25,439	41,043
Prepaid Expenses	24,691	( 7,787)
Income Tax Refunds Receivable	22,364	8,370

Current Liabilities

Accounts Payable	( 58,656)	( 48,549)
Accrued Expenses and Taxes Payable	( 18,224)	363
Federal Corporation Income Tax Payable	( 6,755)	36,991
Due to Commuter Airlines, Inc.	<u>(195,000)</u>	<u>( 14,314)</u>

Working Capital - Increase (Decrease)

\$ (158,970) \$ (100,159)

See attached notes to financial statements.

BROOME COUNTY AVIATION, INC.  
STATEMENTS OF CHANGES IN RETAINED EARNINGS  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1974</u>	<u>1973</u>
<u>Balance - January 1</u>	\$ 595,473	\$ 476,917
Add: Net Income for the Year (Exhibit B)	137,324	118,556
Net Increase Due to Adjustments by Treasury Department of Prior Years' Tax Examinations	<u>3,884</u>	<u>-0-</u>
<u>Balance - December 31</u>	<u>\$ 736,681</u>	<u>\$ 595,473</u>

See attached notes to financial statements.

COMUTER AIRLINES, INC.  
BALANCE SHEETS  
AS AT DECEMBER 31,

	ASSETS	1974	1973
<u>Current Assets</u>			
Cash in Banks and on Hand		\$ 115,241	\$ 545,837
Accounts Receivable (Net of Allowance for Doubtful Accounts of \$2,500 in 1974, and \$1,500 in 1973)		132,831	113,484
Federal Corporate Income Tax Refundable (Note 2)		-0-	3,689
Accrued Interest Receivable		-0-	7,790
Prepaid Taxes		6,108	-0-
<u>Total Current Assets</u>		<u>254,180</u>	<u>670,800</u>
<u>Equipment (Note 2)</u>			
Aircraft		1,215,762	583,213
Less: Accumulated Depreciation		<u>289,555</u>	<u>121,500</u>
<u>Net Equipment</u>		<u>926,207</u>	<u>461,713</u>
<u>Other Assets</u>			
Due from Broome County Aviation, Inc. - Long Term (Note 3)		455,010	293,280
Deposits Receivable		<u>2,500</u>	<u>1,000</u>
<u>TOTAL ASSETS</u>		<u>\$ 1,637,897</u>	<u>\$ 1,426,793</u>

LIABILITIES AND STOCKHOLDERS' EQUITY

<u>Current Liabilities</u>			
Notes Payable - Bank of New York, Southern Tier, et al. (Note 3)		\$ 561,428	\$ 171,429
Less: Due from Broome County Aviation, Inc. - Current (Note 3)		<u>280,714</u>	<u>85,714</u>
Accounts Payable and Accrued Taxes Payable		280,714	85,715
Federal Corporate Income Taxes Payable (Note 2)		3,637	9,647
<u>Total Current Liabilities</u>		<u>35,272</u>	<u>-0-</u>
<u>Long Term Liabilities</u>			
Notes Payable - Bank of New York, Southern Tier, et al. (Note 3)		828,572	985,714
<u>Total Liabilities</u>		<u>1,148,195</u>	<u>1,081,076</u>
<u>Stockholders' Equity</u>			
Capital Stock - Common 200 Shares, No Par, Authorized 10 Shares Issued		1,000	1,000
Retained Earnings		<u>488,702</u>	<u>344,717</u>
<u>Total Stockholders' Equity</u>		<u>489,702</u>	<u>345,717</u>
<u>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</u>		<u>\$ 1,637,897</u>	<u>\$ 1,426,793</u>

See attached notes to financial statements.

COMUTER AIRLINES, INC.  
NOTES  
DECEMBER 31, 1974

NOTE 1 - BUSINESS

The Company realizes its income primarily from providing regularly scheduled passenger air transportation service between Binghamton, New York, and Washington, D.C., and the New York City area as a "third level airline".

The Company has no operating organization of its own and owns only two of the aircraft it uses. It purchases its usage of fully manned aircraft and administrative functions from its affiliated corporation, Broome County Aviation, Inc.

NOTE 2 - SIGNIFICANT ACCOUNTING POLICIES

A. Investment Credit - Income Tax Payable - The Company has adopted the "flow through" method of recognizing investment tax credit on purchases of new fixed assets. Such credit is recognized totally in the year of fixed asset acquisition by a corresponding reduction in the income tax provision for that year. In the current period, the net investment tax credit benefit amounted to \$44,252. The Company's income tax returns have been examined by the Treasury Department through December 31, 1973. The Company anticipates no material change in its financial position upon examination of any of the statutorily open years.

B. Equipment - The Company depreciates its aircraft for both tax and financial report purposes on the double declining balance method over an 8 year useful life.

NOTE 3 - NOTES PAYABLE - BANK OF NEW YORK, SOUTHERN TIER, ET AL.

During 1973, the Company joined with its affiliate, Broome County Aviation, Inc., in borrowing \$1,200,000 from its bank to purchase two new Metro liner turbojet aircraft. One such aircraft is carried on the Company's books and one on its affiliate's books. Although the full liability to the bank is carried on the Company's books, Broome County Aviation, Inc.'s net share of the borrowing is included in "Due from Broome County Aviation, Inc." Repayment terms call for monthly principal payments of \$14,286 plus interest at a variable rate of 6 to 7½% per year. The note will be liquidated over a seven year period. Substantially all of the fixed assets of the Company and of its affiliate, Broome County Aviation, Inc., are pledged as collateral against this note. In addition, in 1974 the Company and its affiliate borrowed funds to purchase two additional metro liner turbojets. At year end the balance due was \$390,000 which it is anticipated will be paid back substantially in 1975. Broome County Aviation's share of this new borrowing is also included in "Due from Broome County Aviation, Inc."

NOTE 4 - COMMITMENTS AND CONTINGENT LIABILITIES

Counsel for the Corporation has advised that they are not aware of any lawsuits or claims pending against the Company.

COMPUTER AIRLINES, INC.  
STATEMENTS OF INCOME AND RETAINED EARNINGS  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1974</u>	<u>1973</u>
<u>Net Sales</u>	\$ 1,641,523	\$ 945,353
<u>Cost of Operations - Services Leased from Affiliate</u>	<u>1,244,061</u>	<u>687,103</u>
<u>Gross Margin</u>	<u>397,462</u>	<u>258,250</u>
<u>Expenses</u>		
Commission Expense	47,535	36,434
Office and Other Expense	<u>14,323</u>	<u>3,485</u>
<u>Total Expenses</u>	<u>61,858</u>	<u>39,919</u>
<u>Operating Income Before Interest, Depreciation And Taxes</u>	335,604	218,331
<u>Add:</u> Interest Income	23,708	7,790
<u>Less:</u> Depreciation	(168,055)	(121,500)
<u>Income Before Income Taxes</u>	191,257	104,621
<u>Less:</u> Income Taxes for the Period (Note 2)	<u>47,272</u>	<u>8,446</u>
<u>Net Income to Retained Earnings</u>	143,985	96,175
<u>Retained Earnings - January 1,</u>	<u>344,717</u>	<u>248,542</u>
<u>Retained Earnings - December 31,</u>	<u>\$ 483,702</u>	<u>\$ 344,717</u>
<u>Earnings Per Share</u>	<u>\$ 14.39S.50</u>	<u>\$ 9,617.50</u>

See attached notes to financial statements.

COMPUTER AIRLINES, INC.  
STATEMENT OF CHANGES IN FINANCIAL POSITION  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1974</u>	<u>1973</u>
<u>Funds Provided By:</u>		
Net Funds Provided by Operations	\$ 143,985	\$ 96,175
Add Back: Depreciation	<u>168,055</u>	<u>121,500</u>
<u>Funds Provided by Operations</u>	<u>312,040</u>	<u>217,675</u>
Additional Long Term Borrowing	<u>-0-</u>	<u>589,516</u>
<u>Total Funds Provided</u>	<u>312,040</u>	<u>807,191</u>
<u>Funds Applied To:</u>		
Acquisition of Fixed Assets	632,549	583,213
Less: Prior Payments	<u>-0-</u>	<u>285,160</u>
	<u>632,549</u>	<u>298,053</u>
Increase in Loans to Affiliate	161,730	9,819
Increase in Deposits	1,500	1,000
Repayment of Long Term Borrowing	<u>157,142</u>	<u>-0-</u>
<u>Total Funds Applied</u>	<u>952,921</u>	<u>308,872</u>
<u>Net Funds Provided (Applied)</u>	<u>\$ (640,881)</u>	<u>\$ 493,319</u>
<u>Components of Working Capital - Increase (Decrease)</u>		
<u>Current Assets</u>		
Cash in Bank and on Hand	\$(430,596)	\$ 467,057
Accounts Receivable - Net	19,347	48,162
Travel and Other Tax Refund Receivable	6,108	( 1,150)
Income Tax Refunds Receivable	<u>-0-</u>	<u>( 645)</u>
Accrued Interest Receivable	( 7,790)	7,790
Federal Corporate Income Tax Refundable	( 3,689)	-0-
<u>Current Liabilities</u>		
Notes Payable - Bank of New York, Southern Tier, et al. - Net	(194,999)	( 14,315)
Accounts and Accrued Taxes Payable	6,010	( 8,590)
Federal Corporate Income Tax Payable	<u>( 35,272)</u>	<u>-0-</u>
<u>Working Capital - Increase (Decrease)</u>	<u>\$ (640,881)</u>	<u>\$ 493,319</u>

See attached notes to financial statements.

BROOME COUNTY AVIATION, INC.  
COMPUTER AIRLINES, INC.  
COMBINED BALANCE SHEETS  
DECEMBER 31,

	<u>ASSETS</u>	<u>1974</u>	<u>1973</u>
<u>Current Assets</u>			
Cash in Banks and on Hand		\$ 151,008	\$ 558,510
Accounts Receivable (Net of Allowance for Doubtful Accounts of \$3,500 in 1974 and \$1,500 in 1973)		175,159	156,518
Tax Refunds Receivable		77,875	28,300
Inventories		109,778	84,339
Prepaid Expenses		61,632	36,941
Accrued Interest Receivable		-0-	7,790
<u>Total Current Assets</u>		575,452	872,407
<u>Equipment</u> (Net of Depreciation of \$1,471,169 in 1974 and \$945,501 in 1973)		2,532,310	1,453,388
<u>Other Assets</u>			
Deposits Receivable		2,807	1,331
Loans from Officers - Net		7,243	11,484
<u>TOTAL ASSETS</u>		\$ 3,117,812	\$ 2,338,610

LIABILITIES AND STOCKHOLDERS' EQUITY

<u>Current Liabilities</u>			
Notes Payable - Bank of New York, Southern Tier, et al.	\$ 1,390,000	\$ 1,157,143	
Less: Portion Due After One Year	( 828,572)	( 985,714)	
Accounts Payable	166,606	104,313	
Accrued Expenses and Taxes Payable	55,548	38,836	
Federal Corporate Income Tax Payable	42,027	8,135	
<u>Total Current Liabilities</u>	325,609	322,713	
<u>Long Term Liabilities</u>			
Notes Payable - Bank of New York, Southern Tier, et al.	828,572	985,714	
Notes Payable - Other	120,000	20,000	
Reserve for Deferred Income	10,315	13,102	
Use Tax Payable - Due After One Year	96,933	45,891	
<u>Total Long Term Liabilities</u>	1,055,820	1,064,707	
<u>Total Liabilities</u>	1,881,429	1,387,420	
<u>Stockholders' Equity</u>			
Capital Stock	11,000	11,000	
Retained Earnings	1,225,383	940,190	
<u>Total Stockholders' Equity</u>	1,236,383	951,190	
<u>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</u>	\$ 3,117,812	\$ 2,338,610	

See attached notes to financial statements.

BROOMFIELD COUNTY AVIATION, INC.  
COMPUTER AIRLINES, INC.  
COMBINED STATEMENTS OF INCOME  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1974</u>	<u>1973*</u>
<u>Net Sales (Intercompany Sales Eliminated)</u>	\$ 2,585,989	\$ 1,781,032
<u>Other Income</u>	<u>23,708</u>	<u>39, 37</u>
<u>Gross Income</u>	<u>2,609,697</u>	<u>1,820,119</u>
 <u>Operating Expenses</u>		
Salaries	613,274	467,385
Parts and Fuel Expense	582,614	336,980
Rent and Landing Fees	81,098	54,926
Insurance	90,144	95,899
Telephone and Utilities	50,216	31,388
Payroll and Other Taxes	54,392	41,808
General Flight Expense	16,259	19,398
Professional Fees	19,500	14,125
Office and Miscellaneous Expense	16,639	16,021
Advertising and Promotion	3,265	5,259
Commission Expense	47,535	36,434
Shop Expense	24,252	26,104
Interest Expense	110,315	62,707
Pension Plan	40,000	31,500
Bad Debt Provision	<u>15,252</u>	<u>1,500</u>
 <u>Total Operating Expenses</u>	<u>1,764,755</u>	<u>1,241,434</u>
 <u>Operating Income Before Depreciation and Taxes</u>	<u>844,942</u>	<u>578,685</u>
 <u>Less: Depreciation</u>	<u>526,346</u>	<u>342,578</u>
 <u>Operating Income Before Taxes</u>	<u>318,596</u>	<u>236,107</u>
 <u>Less: Income Taxes</u>	<u>37,287</u>	<u>21,376</u>
 <u>Net Income for the Year</u>	<u>\$ 281,309</u>	<u>\$ 214,731</u>

\* 1973 Reclassified to conform with 1974.

See attached notes to financial statements.



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BROOME COUNTY AVIATION, INC.  
COMPUTER AIRLINES, INC.

FINANCIAL STATEMENTS

DECEMBER 31, 1975

PIAKER, LYONS & COMPANY  
CERTIFIED PUBLIC ACCOUNTANTS  
PARKWAY EAST BUILDING  
2521 VESTAL PARKWAY EAST  
VESTAL, NEW YORK 13850  
1607-729-9373

March 12, 1976

Board of Directors  
Broome County Aviation, Inc.

We have examined the accompanying Balance Sheets of Broome county Aviation, Inc. and of Commuter Airlines, Inc. as at December 31, 1975, and 1974, and the related Statements of Income, Changes in Retained Earnings, and Changes in Financial Position for the years then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, subject to the effect, if any, of the ultimate resolution of the litigation described in Note 5, the aforementioned statements present fairly the financial position of Broome County Aviation, Inc. and its affiliate, Commuter Airlines, Inc., as of December 31, 1975, and 1974, and the results of their operations and changes in financial position for the years then ended in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

We have also examined the Combined Balance Sheets of both aforementioned affiliated corporations as at December 31, 1975, and 1974, and their Combined Statements of Income for the years then ended. The combined statements eliminate all intercompany transactions and accounts and, in our opinion, again subject to the ultimate resolution of the litigation described in Note 5, present fairly on a combined basis the financial position of Broome County Aviation, Inc. and Commuter Airlines, Inc., and the results of their combined operations for the years then ended in conformity with generally accepted accounting principles consistently applied with the prior year.

*Piaker Lyons & Company*

PIAKER, LYONS & COMPANY

BROOME COUNTY AVIATION, INC.  
BALANCE SHEETS  
AS AT DECEMBER 31,

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	<u>ASSETS</u>	<u>1975</u>	<u>1974</u>
<u>Current Assets</u>			
Cash in Bank and on Hand		\$ 51,836	\$ 35,767
Accounts Receivable (Net of Allowance for Doubtful Accounts of \$1,000 in 1975 and 1974)		66,384	42,328
Gas Tax Refunds Receivable		21,870	41,033
Inventories (Note 2)		120,862	109,778
Prepaid Expenses		12,755	61,632
Income Tax Refunds Receivable		22,196	30,734
<u>Total Current Assets</u>		<u>295,953</u>	<u>321,272</u>
<u>Equipment - At Cost (Note 2)</u>			
Aircraft		2,913,731	2,607,638
Shop Equipment		56,723	55,106
Office Equipment		42,963	36,354
Fuel Storage Equipment		57,357	53,905
Vehicles		35,407	34,714
<u>Less: Accumulated Depreciation</u>		<u>3,106,181</u>	<u>2,787,717</u>
<u>Net Equipment</u>		<u>1,564,277</u>	<u>1,181,614</u>
<u>Other Assets</u>			
Deposits Receivable		507	307
Loans from Officers - Net		<u>5,143</u>	<u>7,243</u>
<u>TOTAL ASSETS</u>		<u>\$ 1,843,507</u>	<u>\$ 1,934,925</u>

LIABILITIES AND STOCKHOLDERS' EQUITY

<u>Current Liabilities</u>			
Accounts Payable		\$ 177,300	\$ 162,969
Accrued Expenses and Taxes Payable		62,897	55,548
Due to Commuter Airlines, Inc. - Current Portion (Note 4)		160,716	280,714
Corporate Income Taxes Payable		4,679	6,755
<u>Total Current Liabilities</u>		<u>405,592</u>	<u>505,986</u>
<u>Long Term Liabilities</u>			
Notes Payable - Other		145,000	120,000
Use Tax Payable - Due After One Year		84,429	96,933
Due to Commuter Airlines, Inc. - Long Term (Note 4)		359,820	455,010
Reserve for Deferred Income		-0-	10,315
<u>Total Long Term Liabilities</u>		<u>589,249</u>	<u>682,258</u>
<u>Total Liabilities</u>		<u>994,841</u>	<u>1,188,244</u>
<u>Stockholders' Equity</u>			
Capital Stock - Common 1000 Shares, No Par, Authorized 100 Shares Issued		10,000	10,000
Retained Earnings (Exhibit D)		<u>838,666</u>	<u>736,681</u>
<u>Total Stockholders' Equity</u>		<u>848,666</u>	<u>746,681</u>
<u>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</u>		<u>\$ 1,843,507</u>	<u>\$ 1,934,925</u>

Consistent with the financial statements.

EXHIBIT A

BROOME COUNTY AVIATION, INC.  
NOTES  
DECEMBER 31, 1975

NOTE 1 - BUSINESS

The Company realizes income from three major sources as fixed base operator for the Broome County Airport, namely (1) charter flights for passengers and freight, some on a contractual basis; (2) mail flights on contract with the U.S. Post Office Department; and (3) sales of gas fuel and oil and aircraft maintenance services. The stock in Broome County Aviation, Inc. is solely owned by its president, Mr. Jerry Winston; and the stock in Commuter Airlines, Inc. is solely owned by Mrs. Jerry Winston.

NOTE 2 - SIGNIFICANT ACCOUNTING POLICIES

A. Inventories - Inventories consist of gas fuel and oil maintained for sale and the needs of the Company's own aircraft and are valued at cost, which because of rapid turnover, is essentially equivalent to replacement market price. In addition there is maintained a basic inventory of supplies and parts, largely for the Company's own use, which is carried at an imprest value of \$50,000, adjusted from time to time to reflect increases resulting from inflationary pressures.

E. Equipment - The Company depreciates its equipment for both tax and financial report purposes as follows:

Aircraft on the double declining balance method over 8 years.

Shop, office and fuel storage equipment on the straight line method over 5 years.

Vehicles on the double declining balance method over 4 years for automobiles and 8 years for trucks.

For FAA purposes, certain aircraft are registered to Broome County Aviation, Inc. and others to Commuter Airlines, Inc. For accounting purposes, with the exception of two metro turbojets, all aircraft have been carried on Broome County Aviation, Inc. books. Broome County Aviation, Inc. charges Commuter Airlines, Inc. for its usage of such aircraft and related costs.

As explained in Note 2 of the Commuter Airlines, Inc. report, all fixed assets of Broome County Aviation, Inc. and its affiliate, Commuter Airlines, Inc., are pledged as collateral for the note payable to the Bank of New York, Southern Tier, et al.

In recent years, it has been the Company's normal experience to have occasional sales of aircraft used in operations. Accordingly, such gains are classified as ordinary.

D. Investment Credit - Income Tax Payable - The Company has adopted the "flow through" method of recognizing investment tax credit on purchases of new fixed assets. Such credit is recognized totally in the year of fixed asset acquisition by a corresponding reduction in the income tax provision for that year. In the current year, the net investment tax credit benefit amounted to \$38,256,

BROOME COUNTY AVIATION, INC.NOTESDECEMBER 31, 1975NOTE 2 - SIGNIFICANT ACCOUNTING POLICIES (cont.)

\$23,560 of which reduced the current year's tax and \$14,696 of which was a carry-back to prior years resulting in a refund .

The Company's tax returns have been examined by the Treasury Department through December 31, 1974. Management anticipates no adverse material change in its financial position upon examination of the 1975 open year.

NOTE 3 - PENSION PLAN

The Company adopted a qualified pension plan in 1963, approved by the Internal Revenue Service. The plan provides for a monthly retirement income to participants at age 65 of 10% of first \$400 of monthly salary plus 19% of monthly salary in excess of \$400. All employees are eligible after completion of one year service with the Company. At the year end, the plan was approximately \$35,000 underfunded, which deficiency the Company plans to make up over the next seven years at approximately \$5,000 per year. No significant changes in the plan are contemplated because of new legislation in 1974 affecting employee retirement programs.

NOTE 4 - DUE TO COMMUTER AIRLINES, INC.

The Company together with its affiliate had negotiated in 1973 a loan of \$1,200,000 from its bank to purchase two new Metro liner turbojet aircraft. One is carried on the Company's books and the other on its affiliate's. The repayment terms call for repayment over 7 years with interest at a variable rate of 6% to 7 $\frac{1}{2}$ %. Although the full liability to the bank (which at December 31, 1975, amounted to \$828,572) is carried on Commuter's books, the Company's share is shown as part of the amount due Commuter Airlines. In addition in 1974, the Company and its affiliate borrowed funds to purchase two additional metro liner turbojets. At year end the balance due on this second loan was \$150,000, which it is anticipated will be substantially paid back in 1976. The Company's share of this new loan is also shown as part of the amount due Commuter Airlines. In summary then the total borrowings which are carried on Commuter's books but one-half of which is owed by the Company are:

	Balance Owed 12/31/75
Original Term Note	\$ 828,572
Second Demand Note	<u>150,000</u>
<u>Total</u>	<u>978,572</u>
Broome County Aviation's Share 1/2	<u>\$ 489,286</u>

BROOME COUNTY AVIATION, INC.  
NOTES  
DECEMBER 31, 1975

NOTE 5 - COMMITMENTS AND CONTINGENT LIABILITIES

The Company leases its premises from Broome County for a term of fifteen years ending December 31, 1983. The lease calls for annual payments of \$35,700 in 1976, increasing by \$700 annual increments to \$40,000 in 1982. The Company also leases services/space at some of its termination airports on a short term basis for a total annual commitment of approximately \$12,000 per year.

In December, 1974, flight personnel of the Company elected to associate themselves with the Teamsters Airline Division - Local 732 for collective bargaining purposes. As of the balance sheet date no contract has been entered into.

BROOME COUNTY AVIATION, INC.  
STATEMENTS OF INCOME  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1975</u>	<u>1974</u>
<u>Net Sales</u>	\$ 2,259,521	\$ 2,188,527
<u>Gain on Sale of Aircraft</u>	<u>51,237</u>	<u>-0-</u>
<u>Gross Income</u>	<u>2,310,758</u>	<u>2,188,527</u>
 <u>Operating Expenses</u>		
Salaries	632,399	613,274
Parts and Fuel Expense	523,865	582,614
Rent and Landing Fees	103,762	81,098
Insurance	98,628	90,144
Telephone and Utilities	65,215	50,216
Payroll and Other Taxes	55,857	54,392
General Flight Expense	25,537	16,259
Professional Fees	20,419	18,500
Office and Miscellaneous Expense	16,727	18,568
Advertising and Promotion	5,000	3,265
Shop Expense	27,194	24,252
Interest Expense - Net	103,682	110,315
Pension Plan (Note 3)	<u>45,000</u>	<u>40,000</u>
 <u>Total Operating Expenses</u>	<u>1,723,285</u>	<u>1,702,897</u>
 <u>Operating Income Before Depreciation</u>	587,473	485,630
 Less: Depreciation Expense (Note 2)	<u>500,476</u>	<u>358,291</u>
 <u>Operating Income</u>	86,997	127,339
 Less: Incor Tax for the Period - Current Year	1,651	15,802
Refund Due to Carryback of Excess		
Investment Credit (Note 2)	( 14,696)	( 25,787)
 <u>Net Income to Retained Earnings</u>	<u>\$ 100,042</u>	<u>\$ 137,324</u>
 <u>Earnings Per Share</u>	<u>\$ 1,000.42</u>	<u>\$ 1,373.24</u>

See attached notes to financial statements.

BROOME COUNTY AVIATION, INC.  
STATEMENTS OF CHANGES IN FINANCIAL POSITION  
FOR THE YEARS ENDED DECEMBER 31,

	1975	1974
<u>Funds Provided By:</u>		
Net Income from Operations	\$ 100,042	\$ 137,324
Add: Expenses Not Requiring Use of Funds - Depreciation	<u>500,476</u>	<u>358,291</u>
<u>Funds Provided by Operations</u>	<u>600,518</u>	<u>495,615</u>
Disposition of Fixed Assets (Book Value)	43,261	-0-
Increase in Long Term Loans from Affiliate	-0-	161,730
Increase in Long Term Borrowing - Others	25,000	100,000
Increase in Deferred Use Tax Payable	-0-	51,042
Decrease in Loans to Officers	2,100	4,241
Decrease in Deposits Receivable	-0-	24
Adjustment by Treasury Department of Prior Years Tax Returns	<u>385</u>	<u>3,206</u>
<u>Total Funds Provided</u>	<u>671,264</u>	<u>815,858</u>
<u>Funds Applied To:</u>		
Acquisition of Fixed Assets	477,930	972,041
Reduction of Deferred Income	10,315	2,787
Decrease in Deferred Use Tax Payable	12,504	-0-
Increase in Deposits Receivable	200	-0-
Decrease in Long Term Loans from Affiliate	<u>95,190</u>	<u>-0-</u>
<u>Total Funds Applied</u>	<u>596,189</u>	<u>974,828</u>
<u>Net Funds Provided (Applied)</u> (Increase (Decrease) in Working Capital)	<u>\$ 75,075</u>	<u>\$(158,970)</u>
<u>Components of Working Capital - Increase (Decrease)</u>		
<u>Current Assets</u>		
Cash in Bank and on Hand	\$ 16,119	\$ 23,085
Accounts Receivable	24,056	( 706)
Gas Tax Refunds Receivable	( 19,163)	24,792
Inventories	11,084	25,439
Prepaid Expenses	( 48,877)	24,691
Income Tax Refunds Receivable	( 8,538)	22,364
<u>Current Liabilities</u>		
Accounts Payable	( 14,331)	( 58,656)
Accrued Expenses and Taxes Payable	( 7,349)	( 18,224)
Federal Corporation Income Tax Payable	2,076	( 6,755)
Due to Commuter Airlines, Inc.	<u>119,993</u>	<u>(195,000)</u>
<u>Working Capital - Increase (Decrease)</u>	<u>\$ 75,075</u>	<u>\$(158,970)</u>

See attached notes to financial statements.

BROOME COUNTY AVIATION, INC.  
STATEMENTS OF CHANGES IN RETAINED EARNINGS  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1975</u>	<u>1974</u>
<u>Balance - January 1</u>	\$ 736,681	\$ 595,473
<u>Add:</u> Net Income for the Year (Exhibit B)	100,042	137,324
Net Increase Due to Adjustments by Treasury Department of Prior Years' Tax Examinations	<u>1,943</u>	<u>3,884</u>
<u>Balance - December 31</u>	<u>\$ 838,666</u>	<u>\$ 736,681</u>

See attached notes to financial statements.

COMPUTER AIRLINES, INC.  
BALANCE SHEETS  
AS AT DECEMBER 31,

	<u>ASSETS</u>	<u>1975</u>	<u>1974</u>
<u>Current Assets</u>			
Cash in Banks and on Hand	\$ 73,558	\$ 115,241	
Accounts Receivable (Net of Allowance for Doubtful Accounts of \$2,500 in 1975, and 1974)	162,088	132,831	
Federal Corporate Income Tax Refundable (Note 2)	31,101	-0-	
Prepaid Taxes	<u>-0-</u>	<u>6,108</u>	
<u>Total Current Assets</u>	<u>266,747</u>	<u>254,180</u>	
<u>Equipment (Note 2)</u>			
Aircraft	1,218,163	1,215,762	
Less: Accumulated Depreciation	<u>521,189</u>	<u>289,555</u>	
<u>Net Equipment</u>	<u>696,974</u>	<u>926,207</u>	
<u>Other Assets</u>			
Due from Broome County Aviation, Inc. - Long Term (Note 3)	359,820	455,010	
Deposits Receivable	<u>2,500</u>	<u>2,500</u>	
<u>TOTAL ASSETS</u>	<u>\$ 1,326,041</u>	<u>\$ 1,637,897</u>	

LIABILITIES AND STOCKHOLDERS' EQUITY

<u>Current Liabilities</u>			
Notes Payable - Bank of New York, Southern Tier, et al. (Note 3)	\$ 321,432	\$ 561,428	
Less: Due from Broome County Aviation, Inc. - Current (Note 3)	<u>160,716</u>	<u>280,714</u>	
Accounts Payable and Accrued Taxes Payable	160,716	280,714	
Federal Corporate Income Taxes Payable (Note 2)	<u>6,822</u>	<u>3,637</u>	
<u>Total Current Liabilities</u>	<u>167,538</u>	<u>319,623</u>	
<u>Long Term Liabilities</u>			
Notes Payable - Bank of New York, Southern Tier, et al. (Note 3)	<u>657,140</u>	<u>828,572</u>	
<u>Total Liabilities</u>	<u>824,678</u>	<u>1,148,195</u>	
<u>Stockholders' Equity</u>			
Capital Stock - Common 200 Shares, No Par, Authorized 10 Shares Issued	1,000	1,000	
Retained Earnings	<u>500,363</u>	<u>488,702</u>	
<u>Total Stockholders' Equity</u>	<u>501,363</u>	<u>489,702</u>	
<u>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</u>	<u>\$ 1,326,041</u>	<u>\$ 1,637,897</u>	

See attached notes to financial statements.

COMUTER AIRLINES, INC.  
NOTES  
DECEMBER 31, 1975

NOTE 1 - BUSINESS

The Company realizes its income primarily from providing regularly scheduled passenger air transportation service between Binghamton, New York, and Washington, D.C., the New York City area and Elmira, Horseheads area as a "third level airline".

The Company has no operating organization of its own and owns only two of the aircraft it uses. It purchases its usage of fully manned aircraft and administrative functions from its affiliated corporation, Broome County Aviation, Inc.

NOTE 2 - SIGNIFICANT ACCOUNTING POLICIES

A. Investment Credit - Income Tax Payable - The Company has adopted the "flow through" method of recognizing investment tax credit on purchases of new fixed assets. Such credit is recognized totally in the year of fixed asset acquisition by a corresponding reduction in the income tax provision for that year. In the current period there was no investment tax credit benefit. The Company's income tax returns have been examined by the Treasury Department through December 31, 1974. The Company anticipates no adverse material change in its financial position upon examination of the 1975 open year.

B. Equipment - The Company depreciates its aircraft for both tax and financial report purposes on the double declining balance method over an 8 year useful life.

NOTE 3 - NOTES PAYABLE - BANK OF NEW YORK, SOUTHERN TIER, ET AL.

During 1973, the Company joined with its affiliate, Broome County Aviation, Inc., in borrowing \$1,200,000 from its bank to purchase two new Metro liner turbojet aircraft. One such aircraft is carried on the Company's books and one on its affiliate's books. Although the full liability to the bank (which at December 31, 1975, amounted to \$828,572) is carried on the Company's books, Broome County Aviation, Inc.'s net share of the borrowing is included in "Due from Broome County Aviation, Inc." Repayment terms call for monthly principal payments of \$14,286 plus interest at a variable rate of 6 to 7½% per year. The note will be liquidated over a seven year period. Substantially all of the fixed assets of the Company and of its affiliate, Broome County Aviation, Inc. are pledged as collateral against this note. In addition, in 1974 the Company and its affiliate borrowed funds to purchase two additional metro liner turbojets. At year end the balance due was \$150,000 which it is anticipated will be paid back substantially in 1976. Broome County Aviation's share of this new borrowing is also included in "Due from Broome County Aviation, Inc."

COMPUTER AIRLINES, INC.  
NOTES  
DECEMBER 31, 1975

NOTE 3 - NOTES PAYABLE - BANK OF NEW YORK, SOUTHERN TIER, ET AL. (cont.)

In summary then the amount due from Broome County Aviation, Inc. including its share of the bank borrowings can be shown as follows:

	Balance Owed <u>12/31/75</u>	Currently Due	Due After One Year	Broome County Aviation, Inc.'s Share @ 1/2
Original Term Loan .	\$ 828,572	\$ 171,432	\$ 657,140	\$ 414,286
Second Demand Loan	<u>150,000</u>	<u>150,000</u>	<u>-0-</u>	<u>75,000</u>
	<u>\$ 978,572</u>	<u>\$ 321,432</u>	<u>\$ 657,140</u>	<u>489,286</u>
Additional Due from Broome County Aviation, Inc. on Normal Advances				<u>31,250</u>
<u>Total Due from Broome County</u>				<u>\$ 520,536</u>
Shown As: Due Currently				\$ 160,716
Due Long Term				<u>359,820</u>
<u>Totals Above</u>				<u>\$ 520,536</u>

NOTE 4 - COMMITMENTS AND CONTINGENT LIABILITIES

Counsel for the Corporation has advised that they are not aware of any lawsuits or claims pending against the Company. However, attention is directed to the litigation involving its affiliate, Broome County Aviation, Inc. as explained in Note 5 of that Company's report.

COMPUTER AIRLINES, INC.  
STATEMENTS OF INCOME AND RETAINED EARNINGS  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1975</u>	<u>1974</u>
<u>Net Sales</u>	\$ 1,773,950	\$ 1,641,523
<u>Cost of Operations - Services Leased from Affiliate</u>	<u>1,496,233</u>	<u>1,244,061</u>
<u>Gross Margin</u>	<u>277,717</u>	<u>397,462</u>
<u>Expenses</u>		
Commission Expense	20,318	47,535
Office and Other Expense	<u>3,141</u>	<u>14,323</u>
<u>Total Expenses</u>	<u>23,459</u>	<u>61,858</u>
<u>Operating Income Before Interest, Depreciation and Taxes</u>	254,258	335,604
<u>Add: Interest Income</u>	89	23,708
<u>Less: Depreciation</u>	( 231,634)	( 163,055)
<u>Income Before Income Taxes</u>	22,713	191,257
<u>Less: Income Taxes for the Period (Note 2)</u>	<u>11,052</u>	<u>47,272</u>
<u>Net Income to Retained Earnings</u>	11,661	143,985
<u>Retained Earnings - January 1</u>	<u>488,702</u>	<u>344,717</u>
<u>Retained Earnings - December 31</u>	<u>\$ 500,363</u>	<u>\$ 488,702</u>
<u>Earnings Per Share</u>	<u>\$ 1,165.10</u>	<u>\$ 14,398.50</u>

See attached notes to financial statements.

COMPUTER AIRLINES, INC.  
STATEMENTS OF CHANGES IN FINANCIAL POSITION  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1975</u>	<u>1974</u>
<u>Funds Provided By:</u>		
Net Income from Operations	\$ 11,661	\$ 143,985
Add Back: Depreciation	<u>231,634</u>	<u>168,055</u>
<u>Funds Provided by Operations</u>	<u>243,295</u>	<u>312,040</u>
Decrease in Loans to Affiliate	<u>95,190</u>	<u>-0-</u>
<u>Total Funds Provided</u>	<u>338,485</u>	<u>312,040</u>
<u>Funds Applied To:</u>		
Acquisition of Fixed Assets	2,401	632,549
Less: Prior Payments	<u>-0-</u>	<u>-0-</u>
	<u>2,401</u>	<u>632,549</u>
Increase in Loans to Affiliate	<u>-0-</u>	<u>161,730</u>
Increase in Deposits	<u>-0-</u>	<u>1,500</u>
Repayment of Long Term Borrowing	<u>171,432</u>	<u>157,142</u>
<u>Total Funds Applied</u>	<u>173,833</u>	<u>952,921</u>
<u>Net Funds Provided (Applied)</u>	<u>\$ 164,652</u>	<u>\$(640,881)</u>
<u>Components of Working Capital - Increase (Decrease)</u>		
<u>Current Assets</u>		
Cash in Bank and on Hand	\$( 41,683)	\$(430,596)
Accounts Receivable - Net	29,257	19,347
Travel and Other Tax Refund Receivable	( 6,108)	6,108
Accrued Interest Receivable	<u>-0-</u>	<u>( 7,790)</u>
Federal Corporate Income Tax Refundable	<u>31,101</u>	<u>( 3,689)</u>
<u>Current Liabilities</u>		
Notes Payable - Bank of New York, Southern Tier, et al. - Net	119,998	(194,999)
Accounts and Accrued Taxes Payable	( 3,185)	6,010
Federal Corporate Income Tax Payable	<u>35,272</u>	<u>( 35,272)</u>
<u>Working Capital - Increase (Decrease)</u>	<u>\$ 164,652</u>	<u>\$(640,881)</u>

See attached notes to financial statements.

BROOME COUNTY AVIATION, INC.  
COMMUTER AIRLINES, INC.  
COMBINED BALANCE SHEETS  
DECEMBER 31,

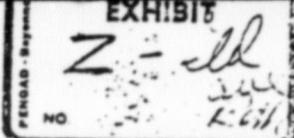
	ASSETS	1975	1974
<u>Current Assets</u>			
Cash in Bank and on Hand		\$ 125,444	\$ 151,003
Accounts Receivable (Net of Allowance for Doubtful Accounts of \$3,500 in 1975 and 1974)		228,472	175,159
Tax Refunds Receivable		75,167	77,875
Inventories		120,862	109,778
Prepaid Expenses		<u>12,755</u>	<u>61,632</u>
<u>Total Current Assets</u>		<u>562,700</u>	<u>575,452</u>
<u>Equipment</u> (Net of Depreciation of \$2,085,466 in 1975, and \$1,471,169 in 1974)		2,238,878	2,532,310
<u>Other Assets</u>			
Deposits Receivable		3,007	2,807
Loans from Officers - Net		<u>5,143</u>	<u>7,243</u>
<u>TOTAL ASSETS</u>		<u>\$ 2,809,728</u>	<u>\$ 3,117,812</u>
<u>LIABILITIES AND STOCKHOLDERS' EQUITY</u>			
<u>Current Liabilities</u>			
Notes Payable - Bank of New York, Southern Tier, et al.		\$ 978,572	\$ 1,390,000
Less: Portion Due After One Year		( 657,140)	( 828,572)
Accounts Payable		184,122	166,606
Accrued Expenses and Taxes Payable		62,897	55,548
Federal Corporate Income Tax Payable		<u>4,679</u>	<u>42,027</u>
<u>Total Current Liabilities</u>		<u>573,130</u>	<u>825,609</u>
<u>Long Term Liabilities</u>			
Notes Payable - Bank of New York, Southern Tier, et al.		657,140	828,572
Notes Payable - Other		145,000	120,000
Reserve for Deferred Income		-0-	10,315
Use Tax Payable - Due After One Year		<u>84,429</u>	<u>96,933</u>
<u>Total Long Term Liabilities</u>		<u>886,569</u>	<u>1,055,820</u>
<u>Total Liabilities</u>		<u>1,459,609</u>	<u>1,881,429</u>
<u>Stockholders' Equity</u>			
Capital Stock		11,000	11,000
Retained Earnings		<u>1,339,029</u>	<u>1,225,383</u>
<u>Total Stockholders' Equity</u>		<u>1,350,029</u>	<u>1,236,383</u>
<u>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</u>		<u>\$ 2,809,728</u>	<u>\$ 3,117,812</u>

See attached notes to financial statements.

BROOME COUNTY AVIATION, INC.  
COMUTER AIRLINES, INC.  
COMBINED STATEMENTS OF INCOME  
FOR THE YEARS ENDED DECEMBER 31,

	<u>1975</u>	<u>1974</u>
<u>Net Sales</u> (Intercompany Sales Eliminated)	\$ 2,537,238	\$ 2,585,989
<u>Other Income</u>	<u>51,326</u>	<u>23,703</u>
<u>Gross Income</u>	<u>2,588,564</u>	<u>2,609,697</u>
<u>Operating Expenses</u>		
Salaries	632,399	613,274
Parts and Fuel Expense	523,865	582,614
Rent and Landing Fees	103,762	81,098
Insurance	98,628	90,144
Telephone and Utilities	65,215	50,216
Payroll and Other Taxes	57,612	54,392
General Flight Expense	25,537	16,259
Professional Fees	21,419	19,500
Office and Miscellaneous Expense	15,119	16,639
Advertising and Promotion	5,000	3,265
Commission Expense	20,318	47,535
Shop Expense	27,194	24,252
Interest Expense	103,682	110,315
Pension Plan	45,000	40,000
Bad Debt Provision	<u>2,014</u>	<u>15,252</u>
<u>Total Operating Expenses</u>	<u>1,746,764</u>	<u>1,764,755</u>
<u>Operating Income Before Depreciation and Taxes</u>	841,800	844,942
<u>Less: Depreciation</u>	<u>732,110</u>	<u>526,346</u>
<u>Operating Income Before Taxes</u>	109,690	318,596
<u>Less: Income Taxes</u>	( <u>1,384</u> )	<u>37,287</u>
<u>Net Income for the Year</u>	\$ <u>111,074</u>	\$ <u>281,309</u>

See attached notes to financial statements.

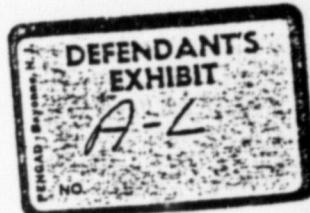


MEMO: TO JERRY WINSTON

MY COMMENTS ABOUT THE EMPLOYEE ROBERT SLOUGH ARE AS FOLLOWING:  
HIS PERFORMANCE HAS BEEN UNPROFESSIONAL AND UNRELIABLE. HE HAS BEEN  
LATE REPEATEDLY AT THE TICKET COUNTER; HAS FAILED TO SHOW UP FOR FLIGHTS;  
HAS ENGAGED IN LOUD AND IRRESPONSIBLE COMMENTS TO CUSTOMERS; LEFT THE  
CASH BOX VISABLY UNATTENDED ON TOP OF THE COUNTER; LEFT HIS KEYS AT  
HOME WHICH MEANT HE COULD NOT CLOSE UP THE OPERATION. CALLED IN FROM  
ROCHESTER, N.Y. INSTEAD OF BEING AVAILABLE FOR A FLIGHT IN ELMIRA.  
THEREFORE, I FEEL THAT THIS EMPLOYEE'S BEHAVIOR REFLECTS AN INDIFFERENT  
ATTITUDE TOWARDS THE COMPANY AND THE GENERAL PUBLIC. AS A RESULT OF  
HIS UNPROFESSIONAL CONDUCT, I FEEL ROBERT SLOUGH SHOULD BE TERMINATED  
AND REPLACED WITH SOMEONE WILLING TO ASSUME THE NECESSARY  
RESPONSIBILITIES.

MARC WINSTON

SUMMER OF  
1974



REQUEST FOR INSTRUCTIONS

Defendants, pursuant to Rule 30, Federal Rules of Criminal Procedures, request the Court to instruct the jury as follows:

*J. M. Stahl  
Allied  
J. M. Stahl*

1. The essential element to a violation or conspiracy to violate subdivisions 3, 4 and 10 of §152 of the Railway Labor Act is the willful interference, influence or coercion by the defendants of their employees in choosing a representative and in joining, organizing or assisting in the organizing of a labor organization of their choice. You are therefore instructed and unless you find in the evidence beyond a reasonable doubt that the defendants had actual knowledge of, and willfully violated, this obligation not to interfere, influence or coerce, you will acquit the defendants.

*R. M. Stahl*

- Hargrave v. U.S., 67 F. 2d 820, 823 (5th Cir. - 1933)

2. To find the defendants guilty of violating or conspiring to violate subdivisions 3, 4 and 10 of §152 of the Railway Labor Act, there must be evidence beyond a

reasonable doubt that the defendants interfered, influenced and coerced their employees in their choice of a representative and in joining, organizing or assisting in the organizing of the labor organization of their choice and did in fact discourage the employees from exercising these rights.

- NLRB v. Adbins Transfer Co., 226 F. 2d 324 (CA6)

- NLRB v. Howard Quarries, Inc., 362 F. 2d 236, 240

*Maintain  
Affiliation*

3. The use of the word "influence" in subdivisions 3 and 4 of §152 of the Railway Labor Act is not to be taken as prohibiting the normal relations between employer and employee. Influence in this context means pressure, the use of authority or power by the defendants to corrupt or override the will of their employees in choosing a representative and in joining, organizing or assisting in the organizing of a labor organization of their choice.

- Texas & New Orleans Railroad Company, et al v.  
Brotherhood of Railway & Steamship Clerks,  
et al, 281 U.S. 548, 568

*Detailed*

4. To find the defendants guilty of conspiring to violate or violating subdivisions 3, 4 and 10 of §152 of the Railway Labor Act there must be evidence beyond a reasonable doubt and not fragmentary and unrelated suspicions that the defendants, as employers, knew, or had a strong suspicion, that the employees who were discharged were members, or assisting in the organization, of a labor organization seeking certification at employer's place of business and that the discharge of the employee came about because of his union activity.

- NLRB v. Mid State Sportswear, Inc. 60 CCH Lab. Cas. ¶10125.
- NLRB v. Buddies Supermarkets, Inc., 431 F. 2d 714, 715 (CA - 5th Cir.)
- = - NLRB v. Office Towel Supply Co., Inc., 201, F. 2d 838 (CA - 2nd Cir.)
- Watt v. Trans World Airlines, Inc., 61 CCH Lab. Cas. ¶11949
- NLRB v. Atlantic Coca-Cola Bottling Co., Inc., 293 F. 2d 300 (5th Cir. - 1961)

*Detailed*

5. If you find that the defendants were serving a business interest, such as economic motivation or a violation of company policy or rules, in discharging these employees, even though such discharges had a tendency to discourage

union membership, you must return a verdict of acquittal.

- Beaver Valley Canning Co. v. NLRB, 332 F. 2d 429, 432 (8th Cir. - 1964)

*Dennis*

6. In reviewing the evidence to determine if the defendants have conspired to violate or violated subdivisions 3, 4 and 10 of §152 of the Railway Labor Act, you should not consider whether the discharges of the employees were with or without merit, just or unjust, mild or drastic as discipline. The Railway Labor Act does not prohibit the right of an employer to select or discharge its employees. You should only consider whether these discharges were willful acts on the part of the defendants, intentionally done with the knowledge that it was in violation of the statute to interfere, influence or coerce their employees in choosing a representative and in joining, organizing or assisting in the organizing of a labor organization of their choice.

- NLRB v. Montgomery Ward & Co., Inc., 157 F. 2d 486, 490 (CA - 9th Cir.)

- NLRB v. McGahey, 223 F. 2d 406, 413 (5th Cir. - )

- Texas & New Orleans Co. v. Brotherhood of Railroad Clerks, 281 U.S. 548, 571.

*Unfiled  
in  
all materials*

7. Subdivisions 3, 4 and 10 of §152 of the Railway Labor Act do not prohibit an employer from making anti-union statements or expressing predictions of dire economic consequences

in the event a union is organized at its place of business provided such expressions of opinion do not constitute an intentional interference, influence or coercion of his employees in their choice of representative and in joining, organizing or assisting in the organizing of a labor organization of their choice.

- NLRB v. Automotive Controls Corp.,  
406 F. 2d 221 (10th Cir. - 1969)
- Union Carbide Corp. v. NLRB, 310 F. 2d 844  
(6th Cir. - 1962)
- NLRB v. Rockwell Mfg. Co., 271 F. 2d 109 (3rd Cir. - 1959)

*Revised*  
8. To find the defendants guilty of violating or conspiring to violate subdivisions 3, 4 and 10 of §152 of the Railway Labor Act you must find that the defendants knew that the employee who was discharged was involved in union activity. And you cannot infer such knowledge from the mere coincidence that the discharged employee was involved in union activity at the time of his discharge.

- Beaver Valley Canning Co. v. NLRB, 332 F. 2d 429 (8th Cir. - 1964)

*Revised*  
9. Under the provisions of subdivisions 3, 4 & 10 of §152 of the Railway Labor Act an employer has the right to

question employees as to union organizational activity provided such interrogation does not constitute an intentional violation of subdivisions 3, 4 and 10 of §152 of the Railway Labor Act.

- NLRB v. Dorn's Transportation Company, Inc.,  
405 F. 2d 706 (2nd Cir. - 1968)

## UNITED STATES DISTRICT COURT : NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

JERRY WINSTON; BROOME COUNTY AVIATION, INC.; COMMUTER AIRLINES, INC.; and THEODORE (TED) BELL,

Defendants.

## REQUEST FOR INSTRUCTIONS

Attorneys for

BECKER, CARD, LEVY & RICHARDS, P.C.  
 Defendants Jerry Winston, Broome County  
 Aviation, Inc., and Commuter Airlines, Inc.  
 141 WASHINGTON AVENUE  
 ENDICOTT, NEW YORK 13760  
 (607) 754-0106

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

## PLEASE TAKE NOTICE

that the within is a (certified) true copy of a  
entered in the office of the clerk of the within named court on

19

NOTICE OF  
ENTRYthat an Order of which the within is a true copy will be presented for settlement to the Hon.  
one of the judges of the within named Court,NOTICE OF  
SETTLEMENT at  
on

19 at M.

Dated:

BECKER, CARD, LEVY &amp; RICHARDS, P.C.

Attorneys for

141 WASHINGTON AVENUE  
ENDICOTT, NEW YORK 13760

To:

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----x  
UNITED STATES OF AMERICA, :  
Plaintiff-Appellee, : Docket No.  
v. : 76-1436  
JERRY WINSTON, BROOME COUNTY : CERTIFICATE  
AVIATION, INC., COMMUTER AIRLINES : OF SERVICE  
INC., and THEODORE (TED) BELL, :  
Defendants-Appellants. :  
-----x

STATE OF NEW YORK )  
: ss.:  
COUNTY OF NEW YORK )

MARVIN WEXLER, being sworn, states:

I am an attorney associated with PAUL, WEISS,  
RIFKIND, WHARTON & GARRISON, attorneys for appellants herein.  
On March 24, 1977 a clerk employed by my firm personally  
served two copies of the attached Brief of the Defendants-  
Appellants, containing revised record references in accordance  
with Rules 30(c) and 31(b) of the Federal Rules of Appellate  
Procedure and in accordance with a Stipulation concerning the  
submission of a deferred Appendix, and also served two copies  
of the deferred Appendix (one copy of the exhibit volume) on  
Paul V. French, Esq., United States Attorney for the Northern

District of New York, Office of the United States Attorney  
for the Northern District of New York, United States Court  
House and Federal Building, 100 South Clinton Street, Syracuse,  
New York 13202.

Marvin Wexler

MARVIN WEXLER

Sworn to before me this  
24th day of March, 1977.

Antoinette Scaffidi

ANTOINETTE SCAFFIDI  
Notary Public, State of New York  
No. 41-8773200 Queens County  
Certified Notary in New York County  
Commission Expires March 30, 1978